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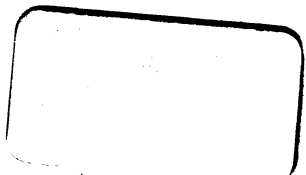

THE
CIVIL CODE
OF
JAPAN

Jan 1972

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E. J. Stillman

1914



° THE
CIVIL CODE

OF

JAPAN.

TRANSLATED BY

JOHN HARINGTON GUBBINS.

*Second Secretary and Japanese Secretary of H. B. M's.
Legation in Japan.*

TOKIO: MARUYA & Co.

YOKOHAMA, SHANGHAI, HONGKONG & SINGAPORE.

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PREFACE.



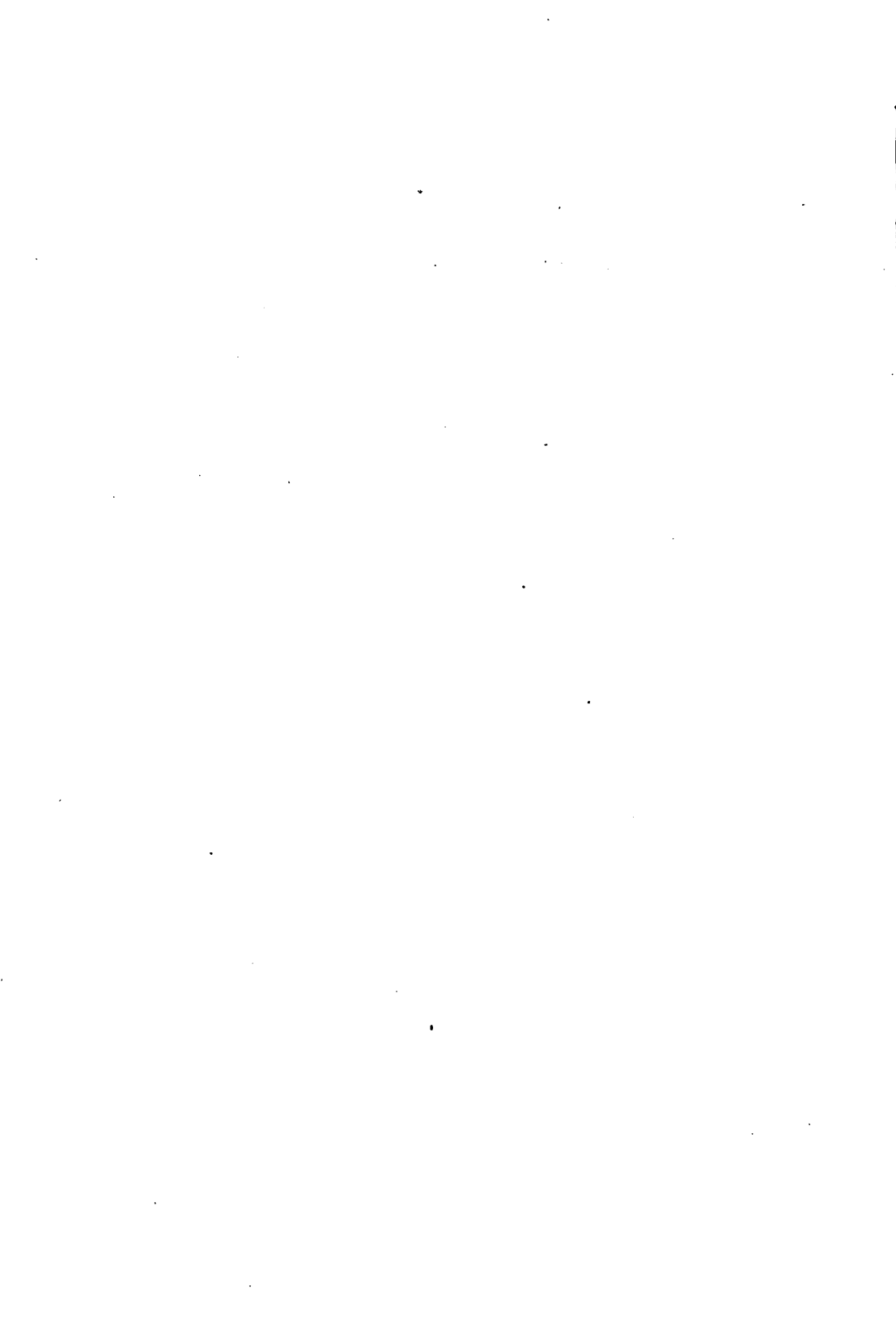
The Civil Code of Japan translated in the following pages was passed by the Diet in March, 1896, and was promulgated on the 23rd. of the following month, the date of its operation being left for subsequent determination by Imperial Decree. This Decree has not yet appeared, but in view of Japan's treaty engagements it may be assumed that the date of operation will not be later than the middle of July of next year. In its present form the Code is still incomplete, the portions relating to succession and to family law not having yet been submitted to the Diet.

The translator wishes to acknowledge the great assistance he has received from Mr. R. Masujima, *Hōgaku Hakushi* of the Japanese Bar, and Barrister of the Middle Temple, and Judge G. Akiyama, President of the Yokohama *Chihō Saibansho*, to both of whom the manuscript of the translation was submitted. He has also consulted with advantage Dr. L. Lönholm's German translation of the Code, and the Commentary written by Messrs. Kakizaki and Yamada.

For the convenience of readers who may wish to consult the original the English and Japanese Texts are given side by side.

TOKIO.

DECEMBER, 1897.



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CIVIL CODE.

法 民

BOOK I. GENERAL RULES.

編一第 則總

CHAPTER I.

章一第

PERSONS.

人

SECTION I.

節一第

THE ENJOYMENT OF PRIVATE RIGHTS.

有享の權私

ARTICLE I.

條一第

The enjoyment of private rights commences with birth.

まに出有の私
る始生に享權

2.

條二第

Foreigners enjoy private rights except in those cases where such enjoyment is prohibited by laws or treaties.

有外場に令外
す私合禁又國
權を示は人
を除あ條は
享くる約法

SECTION II.

節二第

CAPACITY.

力能

3.

條三第

Majority is attained at twenty years of age.*

す年て二十滿
と成以年二

* Reckoned by the actual age attained.

條四第

4.

此義務を免るべき行為は、未成年者の法律行為に在らず。

Minors must for the performance of legal acts obtain the consent of their legal representatives. But acts involving only the acquisition of rights or release from duties do not come under this rule.

得ず之る定前
こを行に項
さ取爲反の
を消はす規

Acts contrary to the provisions of the preceding clause may be cancelled.

條五第

5.

るて分内を法
亦處すに於し
同分をこ未成
し許さる年財
したる得年産
目的を者目的
財隨其目的
産意に定めて
を定之の範囲
處す之を處分
すしし

When his legal representatives have given permission to a minor to deal with certain property for a specified purpose, the minor may deal with such property as he pleases within the limits of the purpose specified. He may also deal as he pleases with property with which his legal representatives have given him permission to deal without specifying any particular purpose.

條六第

6.

能成營る營一
力年業未業種
な者に成を又
有と關年許は
す同し者さ數
一てはれ種
のほ其たの

A minor who has received permission to engage in one or several businesses possesses in regard thereto the same capacity as a person who has attained his majority.

ひはさに成前
其親き場年項
許族はへ者
可編其さの場
の法未合
取規定事たに
消定代跡其於
しに理あ營て
又従入る業未

When there is evidence that a minor engaging in business under the circumstances mentioned in the preceding clause is not competent to conduct it, his legal representatives may in accordance with the provisions of that book of the Code which

deals with family relations either cancel the per- mission given or restrict it.

得ざる限をば
なこす創之

7.

條七第

In the case of a person who is of unsound mind, a Court of law may on the application of such person, or of the wife or husband (as the case may be), or of a relative within the four degrees of relationship, or of the head of the family, or of the person's guardian, or of a curator, or of a procurator, issue an order interdicting such person from the management of his property.

心
神
喪
失
の
常
況
に
在
る
者
に
付
て
は
裁
判
所
は
本
人
、
配
偶
者
、
四
等
親
内
の
親
族
、
主
人
、
保
佐
人
又
は
檢
事
の
請
求
に
因
り
禁
治
産
の
宣
告
を
爲
す
こ
を
得

8.

條八第

A person who is interdicted from the management of his property is committed to the custody of a guardian.

見
は
禁
治
産
を
付
す
後
者

9.

條九第

The acts of a person who is interdicted from the management of his property may be cancelled.

禁
治
産
者
の
行
爲
を
取
り
消
す
こ
を
得

10.

條十第

When the reason for which a person is interdicted from the management of his property ceases, a Court of law must on the application of one of the persons mentioned in Article 7 cancel the order previously issued.

禁
治
産
の
原
因
が
消
滅
し
た
か
ら
裁
判
所
は
第
七
條
に
掲
げ
ら
れ
た
一
人
の
請
求
に
因
り
前
記
の
宣
告
を
取
り
消
す
こ
を
得

條一十第

II.

心
神
耗
弱
者
、
聾
者
、
盲
者
、
癡
者
、
狂
者
、
及
其
他
之
人
、
其
智
力
不
能
處
理
其
自
身
之
財
產
者
、
其
監
護
人
、
監
護
人
を
附
す
る
に
得
な
い
と
す

Persons of weak intellect, those who are deaf, dumb, or blind, and spendthrifts may be treated as persons interdicted from the management of their property, and curators may be appointed.

條二十第

12.

左
列
之
禁
止
行
為
、
其
監
護
人
の
同
意
を
得
な
い
と
す

The following acts of persons treated as persons interdicted from the management of their property require the consent of their curators:—

(一) 資本を元
利を以て用
ふこと

i. The receipt and employment of capital.

(二) 保財を借
すこと

ii. The contraction of debts, and the guaranteeing of debts of others.

(三) 重要な不動
産の取得、
処分、
移転、
賃貸、
その他
の行為

iii. The commission of acts involving the acquisition or loss of rights in regard to immoveables, or valuable moveables.

(四) 訴訟行為

iv. The institution of law-suits.

(五) 和解、
調停、
仲裁、
贈與、
契約

v. The conclusion of contracts relating to donations, amicable arrangements, or arbitration.

(六) 承認、
承認の
放棄

vi. The assent to or rejection of succession.

(七) 遺贈、
遺贈の
受諾、
遺贈の
受諾を
拒絶す

vii. The rejection of donations or bequests, or the acceptance of donations or bequests to which a charge attaches.

viii. The erection of new buildings, the re-construction or enlargement of existing buildings, or the institution of important repairs.

建築(八) 増築又は大改修を爲すこと

ix. Hiring or letting to hire for periods exceeding that fixed by Article 602.

借超たる(九) 條第六百二條を爲すこと

A Court of law may under certain circumstances issue an order making the consent of the curator necessary to an act of a person treated as a person interdicted from the management of his property, although such act is not one of those mentioned in the preceding clause.

入行治裁 爲産判 旨の同者所 宣言を爲す 告めずるに 事項に依り することな 必要と保 得ず

Acts contrary to the provisions of the two preceding clauses may be cancelled.

借はす規前 得之る定二 ことを行に項 取爲反の

13.

條三十第

The provisions of Articles 7 and 10 shall be applied in the case of persons treated as persons interdicted from the management of their property.

用産定第第 すには十七 之準條條 禁の及 準治規ひ

14.

條四十第

A wife must obtain her husband's permission for the performance of the following acts:—

を受夫をけ妻 要くの爲たつ する許する左 こと可に行に となは爲揚

i. The acts specified in the first clause of Article 12 under Sub-headings 1 to 6, inclusive.

爲た六一條(二) する號號第 行に乃一第 こと爲揚至項十 ない第第二

ii. The acceptance or rejection of donations or bequests.

をし贈若(三) 拒又をく こと絶は受は贈 ず之諸違與

三
二
一
に
身
體
に
關
連
す
る
契
約
を
爲
す
こ
と

iii. The conclusion of any contract by which she is subjected to personal restraint.

前
項
の
規
定
に
反
す
る
行
爲
を
爲
す
こ
と
を
消
滅
す
る
爲
に

Acts contrary to the provisions of the preceding clause may be cancelled.

條五十第

15.

一
種
又
は
數
種
の
營
業
に
關
し
て
は
一
人
の
營
業
能
力
に
關
し
て
同
一
の
人
に
關
し
て
一
種
の
營
業
を
營
業
す
る
能
力
を
有
す

A wife who has been permitted to engage in one or more businesses possesses in regard thereto the capacity of an independent person.

條六十第

16.

夫
の
許
し
を
消
滅
す
る
こ
と
を
對
抗
す
る
意
を
有
す
る
第
三
者
に
對
し
て
は
其
の
許
し
を
消
滅
す
る
こ
と
を
對
抗
す
る
意
を
有
す

A husband may cancel or restrict the permission he has given to his wife. But such cancellation, or restriction, cannot be set up against a third party who has acted in good faith.

條七十第

17.

左
の
場
合
に
は
夫
の
許
し
を
要
せ
ず

In the following cases a wife does not require her husband's permission :—

(一)
夫
の
生
死
が
明
ら
か
な
ら
な
い

i. When it is not clear whether the husband is alive or dead.

(二)
夫
の
遺
棄
を
認
め
ら
れ
た

ii. When her husband has deserted her.

(三)
夫
の
禁
治
産
に
關
し
て
禁
治
さ
れ
た
者
な
る

iii. When her husband is interdicted from managing his property, or is treated as a person interdicted from managing his property.

- iv. When her husband on account of lunacy is placed under restraint in a hospital, or in his house.
- v. When her husband has incurred the penalty of imprisonment for the period of one year, or longer, and is serving his term of imprisonment.
- vi. When the interests of the husband and wife conflict.

るに院(四) 監又の 置は爲 せら私か せき宅病 夫か

行せ年(五) 中ら以 にな上 在れ夫 其の する 刑の せき 罰 じ 執 處 一

す益(六) する 相の くと 反利 夫

18.

When the husband is a minor, he cannot give permission for his wife's acts except in accordance with the provisions of Article 4.

條八十第

さ爲非のる夫 みをな規さか 得許は定さ未 ず可にに成 ず妻依第年 するのる四者 此行に條な

19.

When one of two parties is without legal capacity, on his acquiring such capacity the other party may call upon him to state definitely within the period of one month, or longer, whether he ratifies the act which he is free to cancel. If no definite answer is given within the period named, the act in question will be regarded as ratified.

條九十第

行力確に爲無 爲者答其り能 なるかす取た力 追其へき消る者 認期言をへし後 した内なき得之 たるに催をき對 かも確告し行手 のも答するな爲は のさ答なるこ一 看發せさ追無 做さるるを認个力 ずさる得るす月力 するのるの以上者 若き若やの能 きは否やの力 其能を内さ

If before the person without legal capacity has acquired such capacity the other party addresses the demand mentioned in the preceding clause to

理又時と未無 人ばにたな能 對に法於ら力者 して代夫る者か

SECTION III.

節三第

DOMICILE.

所住

21.

條一十二第

The principal place where a person gains his livelihood is regarded as his domicile.

す住以本生各
所て職活人
を其のの

22.

條二十二第

In cases where a person's domicile is not known his place of residence shall be regarded as his domicile.

を於さ住
看以てる所
做ては場
す住居合知
所所にれ

23.

條三十二第

In the case of persons having no domicile in Japan, whether they are Japanese or foreigners, the place of residence in Japan shall be regarded as the domicile. But cases where in accordance with legal provisions the law determines the domicile do not come under this rule.

依むて間日
る其は本
へ所に住す人
きに所日た住
場従さ本る所
合は其做於外
此住すけ國
限所但る人
にの法居たる
在法例所る者
ら律のなさは
すに定以を其

24.

條四十二第

If a temporary domicile is selected in connection with an act, it shall be regarded for all purposes connected with that act as the domicile.

さて其し假或
看は行た住行
做之爲る所爲
すをにさな付
住關き搬
所しは定き

節四第

SECTION IV.

踪失

DISAPPEARANCE.

條五十二第

25.

理處に裁其從
 人の因判財來
 の命其はの住
 權所はの所
 限財利管又
 する産害理
 消との關人
 滅し得理人
 たる本人に
 の付はさ
 なき必要事
 亦在の請
 同中なき者
 し管る求は

If a person leaves his domicile, or place of residence, without appointing a manager for his property, a Court of law may on the application of an interested party, or of a procurator, order the necessary steps to be taken for the management of his property. The same rule applies in cases where during the absence of the person in question the authority of the manager ceases.

こに關判人本
 事を係所を人
 なり人は置の
 要其又其き後
 す命又管理日
 令事人さ至
 な取の請は管
 消請利は管
 す求害裁理

Should the person in question subsequently appoint a manager, the Court of law must on the application of the manager thus appointed, or of an interested party, or of a procurator, cancel the order previously issued.

條六十二第

26.

を檢裁生る不
 改事判死傷在
 任の所分合者
 す請は明にか
 る求利な於管
 こに害らて理
 せり因關さ其
 なり係る不置
 得管人さ在置
 理又き者き
 人ははのた

If in a case where an absentee has appointed a manager it is doubtful whether the absentee is alive or dead, a Court of law may on the application of an interested party, or of a procurator, change the manager.

條七十二第

27.

選に裁にの前
 任に判依規二
 して所り定條

A manager appointed by a Court of law in accordance with the two preceding Articles must

prepare an inventory of the property placed under his management. The expenses of this proceeding shall be defrayed out of the absentee's property.

て不を條理
之在要する
者不を調管
のすへき理
支但製し人
辨財其す財
す産費る産
すな用この
以はさ目

In cases where it is doubtful whether the absentee is alive or dead a Court of law may on the application of an interested party, or of a procurator, order the manager appointed by the absentee to take the steps mentioned in the preceding clause.

こ人檢場不
さには事合在
も不のに者
得前在請於の
得項求て生
ののあ利害死
手置るささ明
續なたるさ係人
命すはは保ら
す管裁又さ
る理判は

In all other cases a Court of law may order the manager to take whatever steps it considers necessary for the preservation of the absentee's property.

す之さ産所右
るを認のっの
こ管む保不外
さ理存存在越
な人處に者裁
得に分必の裁
命は要財判

28.

條八十二第

Should a manager deem it necessary to exceed the authority determined by Article 103, he may do so on obtaining permission from a Court of law. The same rule applies to cases where it is doubtful whether the absentee is alive or dead, and the manager appointed by the absentee deems it necessary to exceed the authority determined by the latter.

さの明なる管
する定な行理
るめらて得人
さささる爲か
さ置る之を第
さきたるを必要
亦た場爲す百
同合すさ三
し權にこる條
限於こるに
をてをさ定め
超其得をきは
ゆ管不はた
る理在裁行
行人者判權
爲かの所限
を不生の超
必不在死許な
要者分可ゆ

29.

條九十二第

A Court of law may cause a manager to fur-

財し人管所載
處てを理は判

るを相逡の
供當に理
をせのに及
なし擲付
む保きひ
得む保きひ

nish proper security for the management and rendition of the property of which he has charge.

酬財事在裁
を産情者判
な管中こ所
得理より依は
人相不關管
に相係理
與當在其人
ふの者他さ
る報のの不

A Court of law may in accordance with the relations subsisting between the manager and the absentee, and other circumstances, award suitable compensation to the manager out of the absentee's property.

條十三第

30.

得の人は間不
宣の裁不在
告請判明者
な求所なら
爲にばは生
す因利なら
こり害死
さ失關七
な踪係年

Should the question whether the absentee is alive or dead remain uncertain for a period of seven years, a Court of law may on the application of an interested party issue an order of disappearance.

間後争へ中戰
分又のきに地
明は止危在
な其み難り臨
ち他たにたる
さる危後過者
さ難し其者
の船た他沈
去舶る死沈
亦同し沈の
したる没の
る没生原た
後し死因る
三たつた船
年る戰る舶

The same rule applies in cases where the question whether persons who have gone to the seat of war, or were on board a vessel which has foundered, or have encountered peril which may be a cause of death, are alive or dead remains uncertain for a period of three years after the war has come to an end, or the vessel has foundered, or the peril has been encountered.

條一十三第

31.

のにけ失
と死期た踪
看亡間るの
做し務者宜
す了は皆
るの前を
も時條受

A person in regard to whom an order of disappearance has been issued shall at the expiration of the periods named in the preceding Article be regarded as having died.

32.

條二十三第

Should it be subsequently proved that a person in regard to whom an order of disappearance has been issued is still alive, or that he died at a time different from that determined in the preceding Article, a Court of law must on the application of the person himself, or of an interested party, cancel the order. But the validity of an act performed in good faith after the issue of the order, and prior to its being cancelled, will not be affected.

なを係證る失
以て人明時踪
要のあさ者
爲す請る異
し但求さなり
た失にきり存
る踪固はるす
行のり裁たる
爲の宣失判に
は告踪所にさ
其効の宣本は
力取告人し又
を消取又は前
せ前取はる條
す消消利に定
善す害こめ
意關のた

Although a person who has acquired property by virtue of an order of disappearance loses his right to it by reason of the order being cancelled, his obligation to return the property is limited by the extent of his actual interest in it at the time of rendition.

をみ益りを失
負其を得踪
ふ財受たの
産く利る宣
を返限失はに
還度ふ其因
するに取取り
於於現消て
義にに現消て
務の利因産

CHAPTER II.

章二第

LEGAL PERSONS (*Hō-jin*).*

人法

SECTION I.

節一第

THE CREATION OF LEGAL PERSONS.

立設の人法

33.

條三十三第

A legal person cannot be created except under the provisions of this Code or of other laws.

こはるの其法
成に規他人
を立非定のは
得すまに法本
するれ依律法

* It may be objected that the rendering adopted here is too wide, but it is difficult to hit upon one which is quite satisfactory. Other suggested renderings are "juristic persons," "artificial persons," and "legal personages."

條四十三第

34.

祭他公祭
祀公益に
示教、慈
善、學、
術、技、
藝、其
のほかに
主として
人々の
福利を
爲すこと
を目的と
し、その
事業の
遂行に
必要と
認めら
れるる
もの

Associations (*Sha-dan*) or Trusts (*Zai-dan*) founded for religious worship or teaching, for charity, for education, or for art, or for any other purpose beneficial to the public, and the object of which is not to make a profit out of the conduct of their business, may on obtaining permission from the proper authorities* be made legal persons.

條五十三第

35.

社營利
立法の
人々の
福利を
爲すこと
を目的と
し、その
事業の
遂行に
必要と
認めら
れるる
もの

Associations (*Sha-dan*) the object of which is to make a profit out of their business may, in accordance with the provisions relating to the formation of commercial companies, be made legal persons.

前項
の規定
は、この
法に
規定
する
事項
に
適用
する

All the provisions relating to commercial companies shall apply to the associations having the status of legal persons (*Sha-dan Hō-jin*) which are mentioned in the preceding clause.

條六十三第

36.

外
國
の
政
治
的
な
事
業
を
行
ふ
た
り
は
認
め
ら
れ
ず
、
但
し
、
法
律
に
基
き
て
認
め
ら
れ
る
事
業
に
限
る

The creation of foreign legal persons other than states, administrative bodies, and commercial companies is not permitted. But foreign legal persons recognized as such by law, or treaty, do not come under this rule.

前
項
の
規
定
は
、
この
法
に
規定
する
事項
に
適用
する

Foreign legal persons recognized as such in accordance with the provisions of the preceding clause

* *Shiunm Kwancho*, literally the Government Office which has control in the matter.

possess the same private rights as legal persons of the same class established in Japan. But rights which foreigners cannot possess and special provisions contained in laws or treaties do not come under this rule.

あ又さす種法
るはな但の
も條得外者
は約さ國と日
は中の人同本
此に權が一に
限特利享の成
に別及有私立
在のひす權す
ら規法るなる
す定律こ有同

37.

條七十三第

The founders of an association having the status of a legal person (*Sha-dan Hō-jin*) must frame articles of association stating the following particulars :—

要記之者社
す載には團
す左定法
るの款人
こ事な
さ項作設
ななり立

- i. The object of the association.
- ii. The name.
- iii. The address of the office.
- iv. The rules governing the capital of the association.
- v. The rules relating to the appointment and retirement of the directors.
- vi. The rules relating to the acquisition and loss of the right of membership.

目的(一)
稱名(二)
所務事(三)
規すに資(四)
定る關産
定す免事(五)
るにの規關任理
定關のた(六)
す得るる資資社
る員員員員
規に格員

38.

條八十三第

The articles of association of an association having the status of a legal person (*Sha-dan Hō-jin*) can only be changed with the consent of three-fourths, or more, of the members, except in cases where there is a special provision in the articles on this point.

在のるの社
ら定こさ四團
すめさき分法
すあなにの
る得限三の
さ但り以定
き定之上款
は款九の
此に變同連
限別更意社
に段すあ員

たれくのは定
生はる認主款
せ其に可務の
す効非を官變
力さ受聽更

Changes in the articles of association will not take effect unless they receive the sanction of the proper authorities.*

條九十三第

39.

とけ第行設財
な一爲立團
要る號をを法
す事乃以目人
項至て的の
を第第と設
定五三する立
む號十る者
るに七寄は
こ掲條附其

The founder of a Trust having the status of a legal person (*Zai-dan Hō-jin*) must by the act of endowment made for the purpose of founding the trust determine the points mentioned in Sub-headings 1 to 5 of Article 37.

條十四第

40.

むはきな事財
る檢は定務團
こ事裁め所法
さの判す又人
なを請所しはの
要求はて理設
すに利死事立
因害亡任者
り關し免か
之係たの其
を人る方名
定又と法稱

Should the founder of a Trust having the status of a legal person die without determining the name of the trust, its office, or the rules governing the appointment and retirement of the directors, a Court of law must on the application of an interested party, or of a procurator, determine these points.

條一十四第

41.

を關き爲以生
準すはをて前
用る贈爲寄處
す規典す附分
定にと行な

If an act of endowment is made by a person during his lifetime, the provisions relating to donations shall be applied.

用る遺爲寄遺
す規贈す附言
定にと行な
を關き爲以
準すはをて

If an act of endowment is made by will, the provisions relating to bequests shall be applied.

* See note on page 14.

のし代理履
責て理事行
に其人其し
任賠連他た
す償帯のる

in question, and the directors and other agents who carried out the decision, are jointly and severally bound to give compensation.

條五十四第

45.

す於所間の法
こての内日人
さ登所によは
な記在各り其
要を地事二設
す爲に務通立

Within two weeks after the creation of a legal person registration must take place in each locality where he has an office.

る以す地た法
こてににる人
さ他非於事の
な人さて務設
をにれ登所立
得す對は記のほ
す抗之を所其
すを爲在主

The creation of a legal person cannot be set up against others unless registration has taken place in the locality where the principal office is situated.

す間たに法
こ内る事人
さにさ務設
要記はをの
すを一設後
爲週け新

If after the creation of a legal person a new office is established, registration must take place within the following week in the locality where the new office is situated.

條六十四第

46.

しの項きす登
如左事へ記

The particulars to be registered are as follows :—

- 目的(一)
- 稱名(二)
- 所務事(三)
- 日の立(四)
年許
月可設
- 期きめ時(五)
はた期を存
其るを定立
時と定立

- i. The object.
- ii. The name.
- iii. The address of the office.
- iv. The date on which the creation was sanctioned.
- v. If a period is named for the continuance of the association, the duration of the period.

- vi. The total amount of the capital. 額總の産資(六)
- vii. The system, where such exists, for the contribution of capital. 其さめ法資(七)
方きたをの
法はる定方出
- viii. The names and domiciles of the directors. 所名事(八)
の
住氏理

Should changes be made in any of the points mentioned in the preceding clause, the fact must be registered within one week. No change can be set up against other persons before registration has taken place.

抗はさ週變前
する其を間更項
こを變要内をに
なを更すに生掲
をなを登記しけ
得を以て前記る
す他にをさ事
人存爲さき項
にりすは中
對てこ一

47.

條七十四第

In the case of facts which have to be registered in accordance with the provisions of the 1st clause of Article 45, and the provisions of the preceding Article, and which require the permission of the proper authorities, the period of registration shall be calculated from the day on which the document according permission reaches the applicant.

算到のに第
す達許依四
し可り十
たを登五
る要記し條
時すす第
よるへき項
りもき及
登記は項ひ
の其し前
期許し條
間可ての
を官規
起の定

48.

條八十四第

If the office of a legal person is changed, the fact of this change must be registered within one week in the locality where the office was previously situated, and within the same period the registration prescribed in the 1st clause of Article

同し内在轉法
期新に地し人
間所移にな
内在轉於る其
に地のてき事
第に登はき務
四於記一は所
十てを週蓋を
六は爲間所移

を爲るに條 46 must take place in the locality to which the office
す登記第一 has been removed.
すことな項

をのさ務轄同 同
の登き所區一 一
すはを域の 一
すを其移内 登
すを移轉に 記
すのた於所 所
こたの事 管
みる事 管

If the office is changed, but remains within the sphere of control of the registration office in which registration was previously effected, only the fact of the removal need be registered.

條九十四第

49.

起知國を條第 第
算のに設の四 四
す到於くる規 十五
達しては定は 條
したるは合外 第三
るたに國第 項
時も亦人法第 四
より事亦人法 項
登に之日本 十六
記付適本日 條
期はす事及 條
間其但務ひ 及
を通外所前 通

The provisions of the 3rd clause of Article 45, and those of Article 46 and of the preceding Article, shall also be applied to cases where foreign legal persons establish offices in Japan. But in regard to facts which occur in foreign countries, the period of registration shall be calculated from the date on which notice of their occurrence is received.

をはにきに外 外
否他於は事國 國
認人て其務法 法
するは登記所人 人
ること法を所設 始
な爲の所設 始
得すのす所て 日
立成ま在る 本
て立ま在る 本

When a foreign legal person first establishes an office in Japan, other persons may refuse to recognize the creation of the legal person until registration has taken place in the locality where the office is situated.

條十五第

50.

も在事は法 法
の地務其人 人
に所に主の 主
す所在の住 住
する所る所 所

The legal person's domicile shall be regarded as being in the locality in which the principal office is situated.

51.

條一十五第

A legal person must at the time of his creation as such, and subsequently within the first three months of each year, prepare an inventory of his property, and keep it always in his office. But in cases where a special business year is fixed an inventory must be prepared at the time of creation, and at the end of the business year.

のるに三法
終も要之個人
にのすな月
於は但事内
て設特務に立
之立に所財の
な之事に産時
作時業備日及
る及年置を毎
もひ度置を毎
な其なく作年
要年設くり初
す度くこ常の

Associations having the status of legal persons (*Sha-dan Hō-jin*) must keep a register of members, which must be revised from time to time as changes occur.

要の簿社
す訂變を團
正更備法
するあへ人
るる置は
こ毎社
に社員
な之員名

SECTION II.

節二第

THE MANAGEMENT OF LEGAL PERSONS.

理管の入法

52.

條二十五第

A legal person must be provided with one or more directors.

すこ事數一法
さな人人人
を置の又に
要く理はは

When there are several directors, the conduct of the affairs of the legal person shall be decided by the vote of the majority, unless it is otherwise provided in the articles of association or the act of endowment.

之理を為於理
を事きにて事
決のは別定數
す通法段數人
半人の又あ
數の定はる
な事め寄場
以務な附合
てはき行に

53.

條三十五第

The directors shall represent the legal person

法て總は事理

ふ在こ附表人
りき行すの
さてを為但事
なは得の趣務
を總す趣歎に
す會又旨の付
の社に規き
の團違定法
議法反又人
に入すはを
從にる寄代

in all business. But they must not act contrary to the articles of association, or the intention of the act of endowment. Moreover in the case of an association having the status of a legal person (*Sha-dan Hō-jin*) they must conform to the resolutions of a general meeting.

條四十五第

54.

さに善限に理
を對意は加事
得抗第のへ
すする三以の
こ者て制權

Restrictions imposed on the powers of directors cannot be set up against a third person acting in good faith.

條五十五第

55.

ま理にて又理
を限禁は事
他り止總は
人特せ會定
に定のれ款
委任行さる寄
する爲るに附
こ代さきり爲

Directors may, except in cases where they are prohibited from doing so by the articles of association, by the act of endowment, or by the resolution of a general meeting, appoint agents for the performance of certain specified acts.

條六十五第

56.

事檢判生於理
を事所すて事
選のはる選の
任請利虞滯缺
す求害あのけ
に關さめる
因係さめる
り人き損場
假又は害合
理は裁をに

If the place of a director becomes vacant, and it is apprehended that loss may be caused by delay, a Court of law shall on the application of an interested party, or of a procurator, appoint a temporary director to fill the vacancy.

條七十五第

57.

な事に反さ法
有は付すの人
せ代てる利さ
す理は事益理
此權理項相事

In matters where the interests of a legal person and a director are opposed the latter has not the powers of an agent. In these circumstances a

special director must be appointed in accordance with the provisions of the preceding Article.

此を特定は協
を選別に前合
を任依の於
する入て規て

58.

A legal person may by the articles of association, by the act of endowment, or by the resolution of a general meeting, be provided with one or more inspectors.

條八十五第

な監一會寄法
得事人の附人
を又決行に
置は議為は
く數を又は定
こ入人以は規
さのて編、

59.

The duties of an inspector are as follows:—

條九十五第

しこの務の監
如左職事

- i. To examine the state of the legal person's property.
- ii. To enquire into the conduct of affairs by the directors.
- iii. To report to a general meeting, or to the proper authorities, any irregularity in the state of the property, or in the conduct of affairs by the directors, which they may discover.
- iv. To call, if necessary, a general meeting in order to make the report mentioned in the preceding clause.

こ資況産人(一)
さすのの(一)法
る監狀財

るな行の(二)
こ監の業(二)
さ資狀務理
す況執事

さ主る廉務(三)
務さあの(三)財
官さるの執産
に之はこ行産
にをににの
報告を付狀
する總發き況
る又見不又
こは又し整は
たの業

る會を爲報(四)
こ招さめ告(四)前
さ必なを前
集はを爲號
す要爲號
あすの

60.

The directors of an association having the status of a legal person (*Sha-dan Hō-jin*) must

條十六第

回毎く事人社
社年さほの團
員一も少理法

すに開總の call an ordinary general meeting of the members
をく會の通
要こな常 at least once a year.

條一十六第

61.

をかにむは社
得てる必團
集も要法
すきあ人
る時ばり
る何の理
こ總時認事

The directors of an association having the status of a legal person (*Sha-dan Hō-jin*) may, whenever they consider it necessary, call an extraordinary general meeting.

減但求議總
此總のの社
定會為目的
數なした的
は招したる五
定集たる分
すは款の事
るこは項の
を以ては一
之を理を以
を増す事より
臨請會

When a request for an extraordinary general meeting, stating the object for which the meeting is desired, is presented by one-fifth, or more, of the whole number of members, the directors must call an extraordinary general meeting. But this number may be increased, or reduced, by the articles of association.

條二十六第

62.

之たを議總
なる示のも會
を方し目五
す法定的日招
るとに定た前
を從に款たる
を定にる其
すひ定事少
すめ項會

General meetings must be called in accordance with the procedure laid down in the articles of association, notice of the meeting and of its object being given at least five days beforehand.

條三十六第

63.

をて任以社
行總して團
ふ會た理法
のる事人
決議の他
にを事務
依除役は
りく員定
て外に款
之總委を

The affairs of an association having the status of a legal person (*Sha-dan Hō-jin*), with the exception of such matters as are by the articles of association entrusted to the directors, or to other officers, shall all be conducted by the resolutions of a general meeting.

64.

條四十六第

Unless the articles of association provide otherwise, a general meeting can only decide on matters in regard to which previous notice has been given in accordance with the provisions of Article 62.

き定みみの總
は款決爲規會
此に議し定に
限別みたに於
に段爲る依て
在のす事りは
ら定こ項て第
すめさに環六
あか付め十
る得て通二
さ但の知條

65.

條五十六第

All the members of an association have equal voting powers.

すも等權の各
のなは齊社
さる平決員

Members absent from a general meeting may vote by letter, or by proxy.

こ理か面さ總
さ人爲なる會
かかし以社に
得用又て員出
たは表は席
す代決書せ

In cases where the articles of association provide otherwise, the provisions of the two preceding clauses shall not be applied.

せはあ別定前
す之る段は二
か場の定項
適合定款の
用にめに規

66.

條六十六第

In cases where a decision has to be made in regard to the relations between an association having the status of a legal person and certain members, the latter have not the right to vote.

權て決さ社
みはかの團
有其爲關法
せ社す保人
す員場にと
は合付或
表にき社
決於議員

67.

條七十六第

The affairs of a legal person are subject to the supervision of the proper authorities.

す督廳主業法
にの務務人
屬監官はの

すの業か時主
る状況以に務
こ況及てて官
ミをひ法も廳
なを財入職は
得査産の權何

The proper authorities may at any time *ex officio* enquire into the condition of the affairs and property of a legal person.

節三第

SECTION III.

解散の人法

THE DISSOLUTION OF LEGAL PERSONS.

條八十六第

68.

散り由左法
すてにの人
解因事は

Legal persons are dissolved:—

散て寄(一)
事定附(一)
由め行定
のた爲款
發るを又
生解以は

i. By the occurrence of the causes for dissolution which are specified in the articles of association, or in the act of endowment.

不は業目(二)
能其の的(二)
成成た法
功功る人
の又事の

ii. When the business which is the object of the legal person is accomplished, or when its accomplishment is impossible.

産破(三)

iii. By bankruptcy.

の立(四)
取許(四)
消可設(四)

iv. By the revocation of the permission for creation.

解事協項社
散由合に團
すにの揚法
因外け人
り左たは
てのる前

Associations having the status of a legal person (*Sha-dan Hō-jin*) are also dissolved for the following causes in addition to those mentioned in the preceding clause:—

議決の會總(一)

i. The resolution of a general meeting.

亡缺の員社(二)

ii. An insufficiency of members.

するて附定人 revert to the persons designated in the articles of
 人指行款の association, or in the act of endowment.
 人指為又財
 歸しをば産
 屬た以寄は

Should both the articles of association and the
 法目主は定 act of endowment fail to designate the persons to
 人的務之又は whom the property is to revert, or to designate
 在為職指寄 the method by which these are to be determined,
 りめ定附 the directors may, on obtaining permission from
 てに許す行為 the proper authorities, dispose of the property for
 は其可方な以 the purposes similar to the declared object of the legal
 總會得法を定 person. But in the case of an association having
 の決處其法を定 the status of a legal person (*Sha-dan Hō-jin*) the
 議分す人のりし者 the resolution of a general meeting must first be
 を經るここの目的に指定せ
 ることを得類は定
 要但似理せ
 社せ事す

す國さ處定前 Property not disposed of in accordance with the
 庫に分二 to two preceding clauses shall revert to the Treasury.
 に財依項
 歸産せの
 屬はれて規

條三十七第

73.

さ尙の内清解 A dissolved legal person shall for the purposes
 看ほ結に算散 of the liquidation be regarded as continuing to
 ず續て於の目た exist until the liquidation is finished.
 す至るは其の法
 るもま清範人
 のて算圖は

條四十七第

74.

寄る事場る法 When a legal person is dissolved, the directors
 附但其合さ人 shall, except in cases of bankruptcy, act as liqui-
 行定清きか dators. But cases where the articles of association,
 為款算除は解 or the act of endowment, provide otherwise, or
 別若人く破散
 段は為理のた

where other persons are chosen as liquidators by a general meeting, do not come under this rule.

すは任於きの定
此して又はめ
限たるはあ
にる人總
在るを會
らき選に
らき選に

75.

條五十七第

When no liquidators are appointed under the provisions of the preceding Article, or when, owing to the occurrence of a vacancy in the number of liquidators, it is apprehended that loss may be sustained, a Court of law may on the application of an interested party, or of a procurator, or of its own motion, appoint a liquidator.

清事はる者前
算の裁為な條
人請判めきの
を求所損なき
任には害又は
すに因り生依
又は關す清り
は係る虞人の
職若ある清
權なく缺算
を以はき人
て檢さるた
る

76.

條六十七第

When there are good reasons for such a course; a Court of law may on the application of an interested party, or of a procurator, or of its own motion, dismiss a liquidator.

る以求係き重
てに人は裁なる
こを清若裁
事算りく判
得人又は所
なは檢は理
か解事は由
任權の利
すな請關ある
る

77.

條七十七第

Except in cases of bankruptcy, a liquidator must within one week after the dissolution of a legal person register his name and domicile, and the reasons for and date of the dissolution, and he must under all circumstances report these facts to the proper authorities.

場月外清
合日解算
に於の登後
つる記及
るてを一
こ之を爲
を之主し
を務又
す官何
要廳の
す

A liquidator who is appointed during the pro-

職就に中算清

職したる清算人は其就
後一週間内に登記し
氏名、住所の登記を
官廳に提出するを要す

cess of liquidation must within one week after his appointment register his name and domicile, and report these facts to the proper authorities.

條八十七第

78.

如左職人清算の務の算

The duties of a liquidator are as follows:—

了結の務現(一)

i. To wind up affairs.

辨債立権(二)
濟務及の取債
のひ

ii. To collect claims and pay debts.

渡の財残(三)
引産餘

iii. To hand over the balance of the property.

得なる爲の清算
爲一め職人
す切に務人は
こを必を前
な爲なふ項

A liquidator may perform any acts which are necessary for the discharge of the duties mentioned in the preceding clause.

條九十七第

79.

月す請債内清
をる求權に算
下るの者少人
るこ申出對は
さなををし其
を要爲すも就
得す俱一定職
す其へきのの
期旨間の日
間はをを公
二個を内を
告催に以二
个告其て月

A liquidator must within two months after his appointment call upon the creditors by at least three successive public notices to send in their claims within a certain fixed period. This period must not be less than two months.

其い申に前
債の出期は項
はさな間債の
清はきを爲内權公
はまに者告

In the public notice mentioned in the preceding clause it must be stated that claims not sent in within the period fixed will be excluded from the

liquidation. But creditors of whom the liquidator has knowledge cannot be excluded.

算より除せらるる債権者には、清算の期に於ては、清算人又は清算委員の通知を以て、債権の存在を知らざることを要す。

Special notice to send in their claims must be given by a liquidator to those persons whom he knows to be creditors.

清算人は、債権者を知りし者には、清算の期に於ては、清算人又は清算委員の通知を以て、債権の存在を知らざることを要す。

80.

第十八條

Creditors who state their claims after the expiration of the period mentioned in the preceding Article can only claim, after all other liabilities have been discharged in full, against property which has not yet been handed over to the persons to whom it is to revert.

前條の債権の請求は、他の債権が全部消滅し、かつ、その財産が清算人に引渡さるる前に、清算人又は清算委員の通知を以て、債権の存在を知らざることを要す。

81.

第十八條

Should it become clear during the course of the liquidation that the property of the legal person is insufficient to pay all debts in full, the liquidator must immediately apply for an order of adjudication, and issue a public notice to this effect.

清算人が、清算の進行中、清算人の財産が全部の債権を償ふに不足するに至ることを認め、破産を宣告し、これを公告するときは、破産手続開始の決定を請求し、これを公告する。

When the liquidator has handed over matters to the official receiver, his duties will be considered as having ended.

清算人が、清算の事務を破産管財人に引渡し、これを公告するときは、清算人の職務は終了する。

The official receiver may recover any thing which has been under the circumstances mentioned

本場場本に於ては、破産管財人が、破産手続開始の決定後、破産者の財産を管理し、これを清算する。

こははもには in this Article paid to a creditor, or handed over
さ破の引歸 to a person who has the right of reversion.
をな産渡
取管るし
得戻財さ
す人きる者

條二十八第

82.

督裁及法 The dissolution and the liquidation of a legal
に判ひ人 person shall be subject to the supervision of a Court
屬所清 of law.
すの算解
監は散

す要前て裁 A Court of law may at any time of its own
な項も判 motion conduct whatever inspection is necessary
さるの職所 for the purpose of the supervision mentioned in
を檢監權は何
得査督を以時
為必にて the preceding clause.

條三十八第

83.

すつ務算た清 When the liquidation is ended, the liquidator
る官人さ算 must report the fact to the proper authorities.
に廳はさ結
さ之き了
な届をほし
要出主清し

節四第

SECTION IV.

則罰

PENAL CLAUSES.

條四十八第

84.

過以場又法 In the following cases the directors, inspectors,
料上合は人 or liquidators of legal persons shall be subjected to
に二に清の
處百於算理
せら圍ては
る下五左監
の圓の事 two hundred yen :—

るを爲るに二
さ意す登る定一
きりこ記め本
たさなた草

i. Neglect to effect the registration pre-
scribed in this Chapter.

- ii. If the provisions of Article 51 are violated, or if a false entry is made in an inventory of property, or in a register of members.
- 載員財規(三)
か名産定二
爲簿目に五
した録違
る若反
る不正し
さくは又
き記社は
- iii. If obstruction is caused to the inspection of the proper authorities, or of a Court of law, as conducted under the circumstances mentioned in Articles 67 and 82.
- を又合は(三)
妨はに第
けた於八
た判て六
る主二
る務十
さ官七
き査の條
査廳又
- iv. If a false statement is made to the proper authorities, or to a general meeting, or if facts are suppressed.
- き隠し實(四)
蔽又の會
した申に官
る事立對
る實をし
さを爲不
とを爲は
- v. Neglect, in violation of the provisions of Articles 70 and 81, to apply for an order of adjudication.
- るす宣規は(五)
るこ告定第
きこにの八
きを請反七
を求し十
を破一
た爲産條
た爲の又
- vi. Neglect to issue the public notice prescribed by Articles 79 and 81, or issuing a false public notice.
- る正の公(六)
るこを公
き告を公
を告を
を告を
爲又
たは
す不
定

章三第

CHAPTER III.

物

THINGS.

條五十八第

85.

謂體さ於本
ふ物はて法
を有物に

The term things in this Code signifies material things.

條六十八第

86.

す動之著ひ土
産な物其地
さ不は定及

Land and fixtures therein are immoveables.

す動て物此
産之は他
さを總の

All other things are moveables.

做産之債無
すさを權記
看動は名

Credits payable to bearer are regarded as moveables.

條七十八第

87.

たる以所用物
るさて有にの
物さ之に供所
なは其に屬有
従其附する者
物屬る爲つ
さ屬せ他め其
すせしめ物已
めたなの常

When the owner of a thing attaches to it for its constant use another thing of which he is owner, the thing so attached becomes an accessory.

ふに處物は従
隨分の主物

Accessories follow the things to which they are accessory.

條八十八第

88.

す然出取に物
果物す従の
實なるひ用
さ天産取方

Products obtained as the natural result of the use of a thing are natural fruits.

受し價の使物
くてさ對用の

Money and other things which are received

as the price paid for the use of a thing are legal fruits.

實法の銀へ
ご定物其き
す果を他金

89.

條九十八第

Natural fruits when separated from the thing which produces them belong to the person who has the right to take them.

屬を收す元天
す有取る物然
すす時よ果
るるにり實
者權之分ば
に利を離其

Legal fruits are acquired during the period of the continuance of the right of acquisition, a day being the basis of calculation.

取を續る之法
得以期權を定
すて間利收果
之日の取實
を割存すは

CHAPTER IV.

章四第

LEGAL ACTS.

爲行律法

SECTION I.

節一第

GENERAL RULES.

則總

90.

條十九第

Legal acts having for their object that which is contrary to public order, or morality, are invalid.

さ律目反善公
す行的す真の
爲さるの秩
はす専風序
無る項俗又
教法なには

91.

條一十九第

If a party to a legal act expresses an intention which is at variance with a provision of law uncon-

秩の法事爲法
序公令者の律
にの中い當行

らめ意又し表
に思はた意
其表能る者
効示力後か
さ力ばをに通
なを之失死知
し妨かふ亡を
け爲もし發

Should the person making the expression of intention die, or lose his legal capacity after he has made it, the validity of the expression of intention is not impaired thereby.

條八十九第

98.

る但以者た意
後てなる時表
は法之りしに示
此定にささ未
限對抗さき成相
に理抗すは年手
在入する其者方
ら之こ意又か
す之をさ思は之
を知な表禁な
り得示治受
すな産け

If the other party at the time of his receiving notice of the expression of intention is a minor, or a person interdicted from the management of his property, the expression of intention cannot be set up against him. But this immunity ceases as soon as his legal representative has cognizance of the fact.

節三第

SECTION III.

理代

AGENTS.

條九十九第

99.

力にたる於て理
な本意さ本人か
生人意さ本人其
す對思な人か
し示を人か
てはて爲爲權
其直爲爲限
效接しすに

An expression of intention made by an agent within the scope of his authority, and showing that he is acting on behalf of his principal, takes effect directly against the latter.

す示し人第前
にに三項
之る對者の規
準思し代定
用表爲理は

The provisions of the preceding clause apply to cases where a third person makes an expression of intention to an agent.

條二百第

102.

要こ者は代
せさたる能
すなる力人

It is not necessary that an agent should possess legal capacity.

條三百第

103.

權のはな權
限み左き限
なかの代の
有爲の行理
すす爲人め

An agent whose powers are not defined has authority to perform only the following acts:—

爲行存保(一)

i. Acts having for their object the maintenance, or preservation, of a thing.

改範は(二)
真圍權(三)
を内利代
目的の理
に於性の
て實目的
する其を
行用變た
爲又せさ
はる又物

ii. Acts having for their object the profitable use, or improvement of things, or rights which are the subject of the agency, provided that no change is made in the nature of the things, or rights in question.

條四百第

104.

こは事又人委
を復由はの任
代理ある已許に
人むさこを因
をさるるをる
選にたる代
任非得たる理
すさるる人
るれさる本

An agent appointed by his principal cannot without the latter's permission, except under unavoidable circumstances, appoint a sub-agent.

條五百第

105.

其付は合代
責を選に理
に本任任於人
任人及してか
すにひた復前
對監る代條
し督さ理の
てにき人場

An agent who under the circumstances mentioned in the preceding Article appoints a sub-agent is responsible to his principal for his appointment and supervision.

An agent who appoints a sub-agent named by his principal is not responsible for his unfitness, or dishonesty, unless he was aware of the fact, and neglected to report it to his principal, or to dismiss him.

るは其復代
に之知不代理
非解任人か
れば任之又本
其本不任の
責人職し指
にこに實た名
任を通なるに
せ意知るこは
すりしこはひ
た又こはて

106.

條六百第

A legal representative may on his own responsibility appoint a sub-agent. But when the appointment is unavoidable, he only incurs the responsibility mentioned in the first clause of the preceding Article.

めさかる以法
たき得て定
らばささ復代
責任前か代理
任條事得理人
の第由但人ば
みお已な其
な項りむ責任
にたこ任任
ふ定るこさすな

107.

條七百第

A sub-agent represents the principal in respect of acts within the scope of his authority.

す人に内は復
を付の其代
代き行權理
表本爲限人

A sub-agent possesses the same rights and assumes the same duties towards the principal and a third person as an agent.

義務同て三本復
務一代者人代
の理に及理
有權人對ひ人
す利さし第は

108.

條八百第

A party to a legal act cannot become the other party's agent in that matter, nor can any one represent both parties in the same matter. But in the case of the performance of an obligation this rule does not apply.

此すの人爲何
限但代さに入
に債理爲付さ
在務人りき雖
らる人さ又其も
す履行は相同
に當手
にこ是方
付さ者法の
てな雙代律
は得方理行

112.

條二十百第

The cessation of an agent's powers cannot be set up against a third person, unless the latter was through his own negligence unaware of the fact.

此實者すて代
限なつる善理
に知らしこ意の
在らさりなこの權
すりしに失を消滅
して因得三は
さして但に之
き其第三對を
は事三抗以

113.

條三十百第

A contract made as agent for another by a person who has not the powers of an agent is not valid against the principal unless he ratifies it.

其非人てか代
效さつ爲他理
力れ其し人權
を生は追たの
せに認る代有
す對爲約入せ
しすはさる
てに本し者

Except in cases where he was cognizant of the fact, ratification or repudiation cannot be set up against the other party unless he was notified thereof.

さ手對れに追
きは方抗は對認
はつす之し又
此其るなては
限んこを以其
に實こを其拒
在なな其絶
ら知相すは相
すりす手に相
た方非手
る相にさ方

114.

條四十百第

Under the circumstances mentioned in the preceding Article the other party may fix a reasonable time, and call upon the principal to state definitely within that time whether he ratifies or repudiates the contract. If a definite reply is not given within the period in question, the contract will be regarded as having been repudiated.

拒内告や期前
絶する否問條
し確るこやを定
たるこを確め合
る爲さな答其
ものさ得す期於
さ若へき間て
看做さ本内相
すき人々手方
はつ其人を追
は本人を相認
追其人を爲は
認期に爲當
を問籠すの

條五十百第

115.

り手す間た代
た方こはる理
るさ代な契權
は理得方有
此限な契於人
に在さ約の者
ら知相消さし

A contract made by a person who has not the powers of an agent may, so long as it remains unratified by the principal, be cancelled by the other party, unless at the time of making the contract the latter was aware that the person in question had not the authority of an agent.

條六十百第

116.

こ者效約表道
の力の示認
を權を時に別
得利生にき段
すすす週さ意
害但りては思
する三其契思

In the absence of any special expression of intention ratification takes effect retrospectively from the date of making the contract. But the rights of a third person must not be injured.

條七十百第

117.

行の認明他
又選ずし人
は擇得たるの
損に從さる者
害從りし能者
賠償さしはか
償のさ其代
責對は且代
に相人
任手權契
す履方道證を

If a person who makes a contract as agent for another is unable to prove his authority to act as agent, or to obtain the principal's ratification, he is bound, at the option of the other party, to fulfil the contract, or to pay damages.

さをしはな前
り爲さ過き項
した又失ここの
ささるは因を規
は者代り知は相
之か理てたり手
の其人之たる方
適用能さるさか
力をし知さき代
をてらき代理
す有契りく理
せ約りく權

The provisions of the preceding clause do not apply to cases where the other party knew, or through negligence did not know that the agent had no authority to act, or where the person making the contract as agent was without legal capacity.

條一十二百第

121.

取消したる行為は初めから無効たるものと見做す。但し、取消の理由が、行為の無効を主張するに至るまで、行為の利益を享受し、又は利益を放棄し、又は利益を譲渡したる場合は、行為は有効と見做す。

Acts which are cancelled are regarded as acts which were invalid *ab initio*. But a person without legal capacity is bound to surrender any benefit which he is actually deriving in consequence of the invalid act.

條二十二百第

122.

取り消し得べき行為は、第三者の権利を害する虞なくして、追認され得べきものと見做す。但し、追認の理由が、行為の無効を主張するに至るまで、行為の利益を享受し、又は利益を放棄し、又は利益を譲渡したる場合は、行為は有効と見做す。

If voidable acts are ratified by the persons mentioned in Article 120, they will be regarded as having been valid *ab initio*. But the right of a third person must not be injured.

條三十二百第

123.

取消の意思表示は、相手方の意思に依り、相手方の取消の意思を表明し、相手方の取消の意思を表明するに至るまで、行為は有効と見做す。

In cases where the other party to a voidable act is specified, cancellation, or ratification, is effected by an expression of intention made to him.

條四十二百第

124.

追認は、取消の理由が、行為の無効を主張するに至るまで、行為の利益を享受し、又は利益を放棄し、又は利益を譲渡したる場合は、行為は有効と見做す。

Ratification is only valid when made after the circumstances which furnish a ground for cancellation have ceased to exist.

禁治産者は、回復の意思を表明し、回復の意思を表明するに至るまで、行為は有効と見做す。

When a person interdicted from the management of his property recovers his legal capacity, he cannot ratify an act until after he has acquired knowledge of it.

The provisions of the two preceding clauses do not apply to cases where acts are ratified by a husband, or by a legal representative.

すはを代は前
之為理夫二
なす人又項
適用はの規
合道法定
せに認定

125.

條五十二百第

With regard to acts which are voidable after their ratification becomes possible in accordance with the provisions of the preceding Article, they shall under the following circumstances be regarded as having been ratified unless an objection is raised :—

さのたへこ前
きさるべき條
は看さき行の
此做さき得規
限すはに定
に但付時
在異認に依
ら議を左より
すを爲の後追
留し事取認
めたる實消
るもあし爲
り得す

- i. When the act is wholly or in part performed.
- ii. When performance is demanded.
- iii. Novation.
- iv. When security is given.
- v. When rights acquired by voidable acts are wholly or in part assigned.
- vi. Compulsory execution.

履一部二
行部又一
のは全

求請の行履三

改更三

與供の保擔四

渡又るりへ五
は權てき
一利取行取
部の得爲消
の全しにし
讓部た因得

行執制強六

126.

條六十二百第

The right of cancellation ceases if not exercised within five years after ratification becomes possible, or within twenty years after the act.

しの效之さ取
たる時にを消
るよ因行得權
さきりはは
さ二十消さる追
亦年滅さり認
同しをすき五爲
經行は年す
過爲時間

第五節

SECTION V.

限期の及件條

CONDITIONS AND PERIODS.

條七十二百第

127.

力時條法停
なり就は法除
生り成行條
す其就爲件
數のは附

A legal act which depends for its operation on a condition* takes effect when the condition is fulfilled.

力よ成爲附解
なり就は法除
失其の條律條
ふ數時件行件

A legal act subject by a condition† to nullification ceases to operate when the condition is fulfilled.

意しむ就就當
たる以の事
に意前者
従さる思に果
ふは表を條
其示し成成

If a party to an act expresses an intention to give effect to an act prior to the fulfilment of the condition attaching to it, the intention shall be followed.

條八十二百第

128.

得方其に者條
すの行於は件
利爲て條附
益より條法
な生件の律
害す成否爲
ずへ就未各
こと相因の各
な手り間事

Neither of the parties to a legal act which depends for its operation on the fulfilment of a condition may so long as it is undecided whether the condition will be fulfilled or not, impair the benefit which will accrue to the other party from the operation of the act.

條九十二百第

129.

者るに定成條
の當於の否件
權事け問未の

So long as it is undecided whether the condition in question will be fulfilled or not, the rights

**A condition precedent.
† A condition subsequent.

and duties of a party to the act may be dealt with, may be inherited, may be maintained, and may be guaranteed in accordance with the general provisions of the law.

又規定に從ひて一般の義務は之を履行するに在りては、其義務の存否を以て其義務の履行を要するものとす。又規定に從ひて一般の義務は之を履行するに在りては、其義務の存否を以て其義務の履行を要するものとす。

130.

條十三百第

If a party to an act who will suffer disadvantage by the fulfilment of the condition attaching to it wilfully impedes its fulfilment, the other party may regard the condition as having been fulfilled.

條件たることを成し、其義務の履行を要するものとす。又規定に從ひて一般の義務は之を履行するに在りては、其義務の存否を以て其義務の履行を要するものとす。

131.

條一十三百第

In cases where the condition attaching to a legal act is already fulfilled at the time when the act takes place, if the act is one which depends for its operation on the fulfilment of a condition, it will be regarded as an unconditional act, but if it be one which is subject by condition to nullification, it will be regarded as invalid.

既に條件の履行を要するものとす。又規定に從ひて一般の義務は之を履行するに在りては、其義務の存否を以て其義務の履行を要するものとす。

In cases where at the time when the legal act takes place it is certain that the condition attaching to it cannot be fulfilled, if the act is one which depends for its operation on the fulfilment of a condition, it will be regarded as invalid, but if it is one which is subject by condition to nullification, it will be regarded as an unconditional act.

既に條件の履行を要するものとす。又規定に從ひて一般の義務は之を履行するに在りては、其義務の存否を以て其義務の履行を要するものとす。

規及る又當前
 定の間は事二
 な第は者項
 準百第成っの
 用二百就條場
 す十二を件合
 九十知のに
 條八ら成於
 の條さ就て

In the cases mentioned in the two preceding clauses, so long as the parties to the act do not know of the fulfilment of a condition, or of the impossibility of a condition being fulfilled, the provisions of Articles 128 and 129 shall be applied.

條二十三第

132.

し件爲效た不
 さささる法
 すさす法
 るる不律條
 もを法行件
 の以行爲を
 亦て爲は附
 同條を無し

A legal act to which an unlawful condition is attached is invalid. The same rule applies to cases where the non-performance of an unlawful act is made a condition.

條三十三第

133.

すは法附止不
 無律し條能
 效行た件
 さ爲るを停

A legal act which depends for its operation on the fulfilment of an impossible condition is invalid.

さは法附除不
 無律し條能
 條行た件
 件爲るを解

A legal act subject by an impossible condition to nullification is an unconditional act.

條四十三第

134.

無に者件律停
 效保の行止
 さる意單爲條
 すさ思は件
 きの債其附
 はみ務條法

If, in a legal act which depends for its operation on the fulfilment of a condition, the condition in question depends solely on the intention of the obligor, the act is invalid.

條五十三第

135.

さて期法附法
 之限律し律
 得なの行た行
 す請到爲る爲
 求來のさ始
 する履き期
 るる行は期
 こまは其な

If a date of commencement is assigned to a legal act, a demand for performance cannot be made until that date arrives.

If a date of termination is assigned to a legal act, it ceases to have effect when that date arrives.

法律に爲るに終り
附し其期限の爲
は其法律に爲る
に附し其期限の
効力を失はす

136.

第三百六十六條

Dates of commencement, or termination, are presumed to be fixed for the advantage of the obligor.

期限は債權者の利益を爲すことを以て定めらるるものと推定す

Advantage with respect to dates of commencement or termination may be surrendered, provided that the interests of the other party are not injured.

期限の利益は債權者から債務者へ譲渡され得るが、他の当事者の利益を害するときは、譲渡されず

137.

第三百七十七條

Under the following circumstances an obligor cannot plead his advantage with respect to dates of commencement, or termination :—

左の各場合に於て、債務者は、其期限の利益を主張すべからず

- i. When he has been adjudged a bankrupt.
- ii. When he has destroyed, or reduced, the security given by him.
- iii. When he does not furnish security in cases where he is bound to do so.

(一) 破産宣告を受けた者

(二) 債権者の毀滅、減少、若しくは減損したる担保

(三) 擔保義務を負ふべき場合に於て、擔保を供せざる者

章五第

CHAPTER V.

間期

PERIODS OF TIME.

條八十三百第

138.

定を段又令期
に除のはは間
従く定法裁の
外め律判計
ふ本行上算
章ある為の法
の場は命は
の規合別令法

In computing periods of time, when these are not fixed by law, or by judicial decrees, or are not specially determined by the legal act itself, the provisions of this Chapter shall be followed.

條九十三百第

139.

すりきてる期
之はしに間
を即た時を
起時るを定
算よとを以む

If a period of time is computed in hours, the computation will begin at once.

條十四百第

140.

は前算き又期
此零入はは間
限時せは期間
に在すす間を
らより但其初定
す始まるる日
るさか之はに
き午をさるる週
をををるる月

If a period of time is computed in days, weeks, months, or years, unless the period begins between midnight and 1 a.m., the day on which it begins will not be counted.

條一十四百第

141.

了は前
さを期條
すを間の場
すての場
期未合
間日のに
のの於
満終て

In cases coming under the preceding Article the period of time will be regarded as having terminated when the last day of the period has expired.

142.

條二十四百第

If the last day of a period of time falls on a great festival anniversary, a Sunday, or any other holiday, the period will expire on the day following, provided always it is customary to transact no business on the day in question.

期間の末日が、大祭日、日曜日、その他の休日、に當りたるときは、其日に取引を爲さざる慣習ある場合に限り、期間を以て満了す

143.

條三十四百第

Periods of time computed in weeks, months, or years, will be calculated according to the calendar.

期間を定むるに、年、月、又は日を以てし、又は層を算する

If the computation of a period of time does not commence from the beginning of a week, month, or year, the period will end on the day preceding that day of the last week, month, or year, which corresponds with the day on which the computation commenced. But if the period in question is computed in months, or years, and there is no day in the last month which corresponds with the day on which the computation commenced, the last day of the month in question will be taken as the date of termination.

週、月、又は年の始より期間を起算せざるときは、其期間の最後の週、月、又は年に於て其起算日に應ずる日の前日を以て満了す。但月又は年に應ずるときは、其月の末日を以て満期日とす。

章六第

CHAPTER VI.

效時

PRESCRIPTION.

節一第

SECTION I.

則總

GENERAL RULES.

條四十四百第

144.

る日其效時
に起力效
遡算はの

Prescription takes effect retrospectively from the day on which its computation commences.

條五十四百第

145.

すり裁るつ時
こて判に之效
と裁所非なほ
な判之さ探當
得なにい用事
す為依はず者

A Court of law cannot base its decision on prescription, unless this plea is raised by the party concerned.

條六十四百第

146.

なす之益時
得るなほ效
すこ抛據の
と棄め利

The benefit of prescription cannot be surrendered in advance.

條七十四百第

147.

断り由左時
すてにの效
申因事は

Prescription is interrupted for the following reasons:—

求請(一)
分は差押(二)
假押(三)
處又假差
認承(三)

- i. Judicial applications.
- ii. Attachment, temporary attachment, or temporary disposal.
- iii. Consent.*

* i. e. the consent of the person for whose benefit prescription will take effect.

148.

條八十四百第

The interruption of prescription mentioned in the previous Article has effect only as between the parties concerned and their successors.

其間ひ斷前
効に其は條
力於承當の
有なる者時
すみの及効
中

149.

條九十四百第

With regard to judicial applications, in cases where an action is dismissed, or withdrawn, the interruption of prescription has no effect.

生中にはは裁
せ斷於取訴判
すのて下の上
効はの却の
力時場下請
な効合又求

150.

條十五百第

With regard to judicial orders for payment, when the restraint of rights pending litigation no longer operates, the interruption of prescription has no effect.

せ中失拘支
す斷ふ東拂
のさ其命
効は其令
力は効は
な時力權
生効を利

151.

條一十五百第

With regard to a summons to attend for the purpose of effecting an amicable arrangement, if the other party does not attend, or if an amicable arrangement is not effected, the interruption of prescription has no effect unless an action is brought within one month. The same rule applies when, in cases where the parties are not obliged to attend, an amicable arrangement is not effected.

和の内せ和
解にす解
効に訴又の
調ををば爲
は生提和
させ起解に
るすのする
さ任る調る
き意には呼
亦出非さるは
同頭さるは
しのれさ相
場は時さ手
合は時さ方
に効は一か
於中個出
て斷月頭

條九十五百第

159.

内人者す父無
はつさる母能
時就為權又力
效職り利は者
完し又に後か
成たは付見其
せたる後任人財
す時任はに産
より其の對を
六法の者し管
个月代能理
月理力有る

In the case of rights possessed by a person without legal capacity against a father, mother, or guardian who manages his property, prescription will not be completed until after six months have elapsed from the time when such person has acquired legal capacity, or a fresh legal representative has been appointed.

内解る妻
亦消權か
同の利夫
し時に對
より對
付ては
六して
个月婚有
月烟す

In the case of rights possessed by a wife against her husband, prescription will similarly not be completed until after six months have elapsed from the date of the dissolution of marriage.

條十六百第

160.

時るは理相相
效時破人續續
完産の選の財
成よりの任確に
せ六の宣在定關
す个月告せらし
内りたれあて
はた又管は

In the case of inheritable property, prescription will not be completed until six months have elapsed from the date of the determination of succession, the selection of a manager, or the issue of an order of adjudication.

條一十六百第

161.

す時さ為時時
よりめ其效の
二さる時他期
週ささ時時避
間ささは効効間
内はは其の中滿
間妨妨断すの
は時時碍する
効止の止さる
完みこの事
成たみこと當
るはの能變り
はの天

If at the time when the period of prescription terminates prescription cannot be interrupted owing to some catastrophe due to natural forces, or to some abnormal occurrence which cannot be avoided, prescription will not be completed until after two weeks have elapsed from the time when the impediment ceased.

SECTION II.

ACQUISITIVE PRESCRIPTION.

162.

A person who for a period of twenty years has, with the intention of owning it, been in undisturbed and open possession of a thing belonging to another acquires the right of ownership.

A person who for a period of ten years has, with the intention of owning it, been in undisturbed and open possession of an immoveable which belongs to another acquires the right of ownership, provided that at the commencement of possession he acted in good faith, and there was no fault on his part.

163.

A person who exercises peacefully and openly rights over property other than the right of ownership, with the intention of doing so on his own behalf, acquires those rights, in accordance with the distinction made in the preceding Article, after the lapse of twenty or ten years, as the case may be.

164.

The prescription mentioned in Article 162 is interrupted if the person in possession voluntarily

節二第

效時得取

條二十六百第

有然思二
權したを十
をた他以年
取る人て間
得者の平所
すは物穩有
其な且の
所占公意

不しし且十
動したる年
産且る公間
の過者然所
所失に他有
有な其人の
権かり其意
をり有思不
取し動を
得さし始産
すきすを以
は善なて平
其に意占平
有穩

條三十六百第

其別公爲所
權に然め有
利従にに權
をひ行す以
取二使の外
得十す意財
す年る思財
又者を産
はは以權
十前てを
年條平自己
のの穩己の
後區且の

條四十六百第

意者は十第
にか占時二百
其任有教條六

断るをのし占 suspends his possession, or is deprived of it by an-
すききほめはな other person.
はれに他中
申た之人止

條五十六百第

165.

す之の六定前 The provisions of the preceding Article shall
な場十は條 extend to cases coming under Article 163.
準合三第の
用に條百規

節三第

SECTION III.

效時滅消

EXTINCTIVE PRESCRIPTION.

條六十六百第

166.

認す者規消
な但の定滅
求爲は時
む利爲始效
む者期は
るは其占又
こは其有は
を時行
得を效の
中時止
断より使
す取附
る得權
爲時な
め效の
何目的
時進的
に行物
てより
も占進
るこ有行
者こす
有な前
者妨第
の承三

Extinctive prescription commences to run from the time when a right can be exercised. The foregoing rule does not interfere with the running, from the date of possession, of acquisitive prescription for the benefit of a third person who is in possession of a thing which is the subject either of a right the date of commencement of which is specified, or of a right which depends for its exercise on the fulfilment of a condition. But the person in whom the right in question is vested may at any time seek the consent of the person in possession to the interruption of prescription.

167.

條七十六百第

A right of action* (*Saiken*) ceases if not exercised for a period of ten years.

消に行年債
滅因は間債
すりさ之は
てるを十

Rights over property other than a right of action and the right of ownership, cease if not exercised for a period of twenty years.

滅る間産債債
すに之債に債
因をは非又
り行二さは
ては十る所
消さ年財有

168.

條八十六百第

A right of action in respect of a debt payable in fixed instalments ceases if not exercised within twenty years from the date on which the first instalment is due, or if not exercised within ten years from the date on which the last instalment is due.

さり消之の定
も十滅を辨期
亦年行す辨金
同間最は期金
し之のさより
後なるは債
を行辨に二は
は濟因十第一
さるよ期り年
るよて間回

The creditor in the case of a debt payable in fixed instalments may at any time, in order to obtain proof of the interruption of prescription, demand from the debtor his written consent to the interruption of prescription.

認時中定
書に断期金
なてもの證の債
求む其債得者
むる債得るは
こ務る爲の時
ま者爲め時
なめのめ時
得承何效

169.

條九十六百第

In cases where money or any other thing is lent for a year, or for a shorter term, a right of action ceases if not exercised for a period of five years.

因年目錢期年
り間的其を又
てさ他以は
消なるのて之
滅行す物定よ
すは債のめり
はさ債給の短
るは權給たる
に付るき
五を金時

* Here and in a few other places I have thought it best to render the word "*Saiken*" by the term "right of action." In most instances, however, where the word occurs I have preferred to adopt the simpler rendering of "claim," as more suited to the context.

條十七百第

170.

りは年左
てさるるに
消減之掲
すにをけ
因行三た

In the following cases a right of action ceases if not exercised for a period of three years :--

劑術(二)
にひ薬師
關勤業
する勞及
る及師
る債の
権調産
治及

i. The claims (*saiken*) of physicians, midwives, and apothecaries in connection with medical treatment, work, and the preparation of medicines.

す事此(二)
終の技
了時師
の工
時其事
より負に
之擔關
をする
起債
算工但
員

ii. The claims of building experts, of foremen-carpenters, and of contractors in connection with work executed. But prescription in these cases is computed from the date of the completion of the work undertaken.

條一十七百第

171.

受をひ辯
取經執
り達士
た吏は
る其
書類は
に其
付き職
其務
責は
を執
免行
るの
て時
年より
及公
證人
及

Barristers are released from responsibility in regard to papers they have received in connection with their duties after three years have elapsed from the date of conclusion of the case in which they were engaged. Public notaries and *shit-tatsuri** are relieved from the same responsibility after the same period has elapsed from the date of execution of their duties.

* A class of unsalaried officers attached to Courts of Justice to whom certain functions and powers in the execution of orders, summonses, or judgments are assigned.

172.

The claims of a barrister, a public notary, and of a *skit-tatsu-ri* in connection with his duties ceases if not exercised for a period of two years after the date of termination of the case out of which the claim arose. But if five years have elapsed from the conclusion of any of the minor matters involved in the case, a right of action in respect of any of those matters ceases even though the aforesaid period of two years has not expired.

條二十七百第

辯護士、公證人及び執達吏の職務に關する債權は、其原因たる事件終了の時より二年の間、消滅す。但し、其事件の期間内、雖も其事項に關する債權は消滅す。

173.

In the following cases a right of action ceases if not exercised for a period of two years :—

條三十七百第

左に掲げたる債權は、行使するに因りて二年の間、消滅す。

- i. The cost of produce sold by producers, or of goods sold by wholesale, or retail dealers.
- ii. The claims of professional workmen, or manufacturers, in connection with their work.
- iii. The claims of the head-master of a public school, the proprietor of a private school, or of a teacher, or an instructor in connection with the cost of instruction, clothing, or lodging supplied to a pupil, or apprentice,

(一) 實商人の生産物及び賣小

(二) 居職人の仕事に關する債權

(三) 生徒及び習業者の衣食住の代料に關する債權

りは年る左
てさ間債に
消る之權揚
滅になはけ
す因行一た

In the following cases a right of action ceases if not exercised for a period of one year :—

人めを短は(二)
のたる以き之月
給料雇定期り又

i. The wages of a hired person when fixed by the month, or a shorter period.

物供賃及(三)
の給金ひ
代したに
價る其の者

ii. The pay or fee of labourers and *geinin**, and the cost of things supplied by them.

賃送運(三)

iii. Charges for the conveyance of goods.

立錢料席(四)
管金消飲及
費物食ひ
代價料遊
並に宿の
料賃木泊貸

iv. The cost of lodging, food and drink, room-hire, admission-fees, and things consumed and money advanced in an inn, restaurant, house of assignation, or pleasure-resort.

料損の産動(五)

v. The hire of moveables.

* *Geinin* is a general term which includes actors, story-tellers, dancing-girls, acrobats, jugglers, etc.

BOOK II. RIGHTS *IN REM.*

編二第
權物

CHAPTER I.

章一第

GENERAL RULES.

則總

175.

條五十七百第

Rights *in rem* other than those defined in this Code and other laws cannot be created.

さ創のに其物
を設い定他權
得す外むのは
する之る法本
こをも律法

176.

條六十七百第

The creation and transfer of rights *in rem* derive their validity solely from the expression of intention of the parties.

効に思當及物
力因表事ひ權
なり示者移の
生ての轉設
す其み意は定

177.

條七十七百第

Where an immoveable is concerned the acquisition or loss or any change in the nature of a right *in rem* cannot be set up against a third person unless registration has taken place in accordance with the provisions of the law of registration.

す三すむ裏不
者にる及動
に非所ひ産
對さに變に
抗れ從更關
すはひはす
る之其登る
こを登記物
さで記法權
なてなのの
得第爲定得

條八十七百第

178.

得には引の動
す對之渡讓産
抗なあ渡に
す以るは關
るてに其す
こ第非動る
こ三さ産物
な者れの權

Where a moveable is concerned the transfer of a right *in rem* cannot be set up against a third person unless the moveable in question has been actually handed over.

條九十七百第

179.

在利物さの同
らの又き物一
す目には權物
的其其かに
た物物同付
る權權一き
さかは人所
き第消に有
は三滅歸權
此者すし及
限の但たび
に權其る他

When the right of ownership and some other right *in rem* in respect of the same thing are vested in the same person, the right *in rem* ceases. But this rule does not apply to cases where the thing, or the right *in rem*, is subject to the right of a third person.

準於其同を所
用て權一目有
すは利人的權
前にはさ外
項消歸すの
但滅するの
書すた他物
の此るの權
規場さ權及
定合き利ひ
なにはか之

When a right *in rem*, other than the right of ownership, and another right to which the right *in rem* is subject are vested in the same person, the latter right ceases. The proviso mentioned in the preceding clause shall extend to these cases.

用之權はの前
せなに占規二
す適は有定項

The provisions of the two preceding clauses do not apply to the right of possession.

CHAPTER II.

章二第

POSSESSION.

權有占

SECTION I.

節一第

THE ACQUISITION OF POSSESSION.

得取の權有占

180.

條十八百第

The right of possession is acquired by holding a thing with the intention of doing so on one's own behalf.

得因を意の占
すり所思爲有
て持なめ權
す以には
なるてす自
取に物る已

181.

條一十八百第

The right of possession may be acquired through an agent.

得るを依代占
こ取り理有
と得て人權
なす之には

182.

條二十八百第

The transfer of the right of possession takes place when the thing possessed is handed over.

すて渡有讓占
之に物渡有
を依のは權
爲り引占の

When the transferee, or his agent, has the thing already in his possession, the transfer of the right of possession may be effected simply by an expression of intention on the part of the parties.

す示讓場現讓
この渡合に受
こみはに占人
をに當於有又
得依事て物は
り者はを其
ての占所理
之意有持代
を思權す人
爲表のるか

條三十八百第

183.

權人表に物代
は示占を理
取之した有爾人
得にたる後か
す因るへき本
りてき意人
占は思爲
有本をめ有

If an agent expresses his intention to hold in future on behalf of his principal a thing which is in his own possession, the principal thereby acquires the right of possession.

條四十八百第

184.

は占し合代
占承有爾に理
有諾す後於人
權しへき第てに
なたる三本依
取得旨者人り
すを命其為占
はしめ代有
其第に理を
三者其人爲
者物にす
者之を對場

In cases where a thing is possessed through an agent, if the principal instructs his agent to hold possession of it in future on behalf of a third person, and the latter consents, he acquires the right of possession.

條五十八百第

185.

る因の已も權
にり意にのさ原
非更思占の性
さにあ有すの
れ所るをる質
は有こさ合場
占のささ占上
有意をしに有
は思表め於者
其を示たてに
性以しるは所
質て又者其有
變有新對有意
せ有權し者思
す始原所か
むに有自き

When a person possessing a thing is regarded as having by the nature of his title no intention to own it, the possession does not change its character unless he expresses to the person who caused him to take possession his intention to own it, or unless by virtue of a new title he resumes possession of it with the intention of ownership.

條六十八百第

186.

平善なのは占
種以意所有
且意て思有者

It is presumed that a person who holds a thing in his possession does so with the inten-

tion of ownership, that he is acting in good faith, and that he is in undisturbed and open possession.

とな公
推爲然
定すも占
すの
有

When there is evidence of previous and of subsequent possession, it is presumed that possession has continued during the interval.

定し占證占前
すた有據有後
るはあを兩
も其る爲時
の間をとしに
さ續きたる於
推續はるて

187.

條七十八百第

The successor of a person who has been in possession of a thing may at his option plead simply his own possession, or his own possession and also that of his predecessor.

す有自有選占
るを己の擇有
こ併のみに者
せを占を従の
をて有主ひ承
得之に張自繼
を前し己人
主主又のは
張占は占其

But if he pleads his own possession, and also that of his predecessor, he inherits any flaw in his predecessor's title.

を瑕に張を前
承疵於す併主
續もてるのせ
す亦は揚て占
之其合主有

SECTION II.

節二第

VALIDITY OF POSSESSION.

の權有占
力效

188.

條八十八百第

It is presumed that the rights exercised by a person over the thing he possesses belong to him lawfully.

するをす物占
も適るの
の法權上者
さに利にか
推有は行占
定す之使有

條九十八百第

189.

す實生有有善
をす物者意
取るよりの
得果より占

A person who in good faith possesses a thing acquires its fruits.

意きは善
のはに意
占其於の
有起て占
者訴敗者
との訴者
看時か
做より本
すりる權
悪さの

But if the person who in good faith possesses a thing loses an action respecting the right of ownership, he will be regarded as having been from the time the suit was instituted a possessor in bad faith.

條十九百第

190.

義果し、返惡
務又、還意
をの過し、の
負代失、占
ふ取に、且、有
る價に、因、者
を意、其、は
償、既、果
還、て、毀
する、了、消
る、損、實
る、費、を

A possessor in bad faith is bound to restore the fruits he has acquired, and to pay the value of fruits he has consumed, of fruits which have suffered injury through his negligence, and of fruits which he has neglected to acquire.

を占隱は前
準有祕強項
用者に暴の
すに因又規
之るは定

The provisions of the preceding clause apply to persons who have acquired possession by force or secretly.

條一十九百第

191.

損負しき由占
に其はに有
因善損惡因
り害意りか
てののの占
現全占有者
に部有失者
利者な者又
益は賠償は責
を其償其毀
受減す回損歸
く失る復すへ
限は務にるき
度毀を對事

If the thing possessed is destroyed or injured owing to causes for which the possessor is responsible, a possessor in bad faith is bound to compensate the person recovering it to the full extent of the injury sustained, but a possessor in good faith is bound to give compensation only to the extent of the benefit he is actually deriving from such destruction or injury. A person, how-

ever, who possesses a thing, without the intention of owning it, even though he has acted in good faith, is bound to give full compensation

なまはの義に
為さ其意務於
雖善思なて
すこ全意な負賠
さ部のなる占但
なをのるさ有為
要賠償さ者有
す償き者有す

192.

條二十九百第

If a person who has entered into undisturbed and open possession of a moveable, has acted in good faith, and no negligence on his part has occurred, he acquires at once the rights to be exercised over it.

利産き善占平
なとのさ意有種
取の上きに且
得にはし始公
す行即てめ然
す時且たに
すに過る動
其失者産
權動なかの

193.

條三十九百第

If, under the circumstances mentioned in the preceding Article the thing possessed is one which has been stolen, or lost, the person from whom it has been stolen, or the person who has lost it, may within two years from the date of the robbery, or loss, claim its restoration from the possessor.

なての者品前
得其時又又條
物よばほの
のり遺遺場
の回二失失合
復年主物に
な問はな於
を請占盜るて
求有難さ占
する者又は有
るにはは物
こ對遺被か
さし失害盜

194.

條四十九百第

If the possessor of a thing which has been stolen, or lost, has bought it in good faith at auction, or in an open market, or from a tradesman who sells things of the same kind, the person from whom it has been stolen, or the person who has lost it, cannot recover it from the possessor without repaying him the price he paid for it.

さ有け物は占
れ者たを公者
はかる販の者
其拂さ賣市か
物びきす場盜
なたはるに品
の回被商於又
復代害人ては
す償者よ又は遺
るを又りは失
こ辨は善其物
さ償遺意物を競
なす失にさ競
得る主て同賣若
すには買種若
非占受のく

條五十九百第

195.

權飼し占他
利養て有入
を主且するか
を取より逃る飼
得其は失者養
す動のほはせ
す物復の時其
の物よ有家
の上請り有畜
に求一の始の
行を个始外
使を受月動
すけ内意物
るさにを

A person who possesses an animal, not being a domestic one, which has been bred by another person acquires the rights he exercises over it, if in the beginning of his possession he acted in good faith, and if within one month from the date of its straying away he receives no demand for its recovery from the person who has bred it.

條六十九百第

196.

は得し額て占
其む其有者
負たる他の物
擔るこのの
に場合必要
歸すに得保
於て但存
ては占復の
は通者より
常の果費
の必要償
費取還
金に於

When a possessor returns the thing possessed, he may require the person recovering it to repay him the money he has spent for its preservation and, other necessary expenses. But if the possessor has enjoyed the fruits accruing from the thing possessed, he must bear the ordinary necessary expenses.

に償増加占
對還に從り金有
せし從額者
てしひ現其
はむ其存か
裁判を費する占
はむる此有物
所は此益の
を金合費の
は得るに改
復但限付良
者惡しり爲
の増復ては
請占價者償
求有價費
に額格
因者選のた

When the value of a thing possessed has been increased by reason of money spent upon its improvement, or other beneficial expenditure made by the possessor, and this increased value is still retained, the possessor may require the recoverer of the thing, at the latter's option, to repay him either the money he has expended, or the amount of the increase in value. But in the case of a possessor in bad faith a Court of law

may on the application of the recoverer of the thing allow him suitable time for repayment.

なり許期相り
得る限當之
にすのに

197.

條七十九百第

A possessor may in accordance with the provisions of the following five Articles institute an action in respect of possession. The same rule applies to the case of a person who holds possession of a thing on behalf of another.

しめすに占
る從有者
は此の條
に占るは
第五條の
爲す他人
の提定
同爲起

198.

條八十九百第

If a possessor is interfered with in his possession, he may by means of an action for maintenance of possession apply for the interference to be stopped, and may claim damages.

こ其占害占
さ妨有せ有
なり賠償保ら
得るの持れ
か停のた其
か請止訴る
及に占有
すひ依き
る損りは妨

199.

條九十九百第

If a possessor has reason to apprehend interference with his possession, he may by means of an action for maintenance of possession apply for the prevention of the interference, and may claim security for damages.

請は依き害占
求損りはせ有
す其占ら者
る害其占る
賠償妨有る
この償保ら其
さを譲の全虞
得る保防訴る
を又にと妨

200.

條百二第

If a possessor is deprived of his possession, he may by means of an action for recovery of possession apply for the restoration of the thing possessed, and may claim damages.

す損り占奪占
る害其有は有
この物回ら者
賠償の取た
を償返のる其
得る還訴と占
請を及に占有
求ひ依はな

202.

條二百二第

An action in respect of possession and an action in respect of ownership do not preclude each other.

互本占
に權有
こに相の
さ相のの
な妨訴
しくさは

An action in respect of possession cannot be decided upon grounds which concern the right of ownership.

を由權占
を裁にに
得判基有
すすきす
するては
こ之理本

SECTION III.

節三第

THE EXTINCTION OF THE RIGHT OF POSSESSION.

滅消の權有占

203.

條三百二第

The right of possession ceases when the possessor relinquishes the intention of possession, or loses possession of the thing possessed. But this rule does not apply to cases where the possessor institutes an action for recovery of possession.

其の滅の意占
限訴す所思有
にを但持を權
在提占を抛は
ら起有失棄占
すし者ふし有
たかに又者
る占因はか
さ有り占占
き回て有有
は收消物の

204.

條四百二第

When possession is held through an agent, the right of possession ceases under the following circumstances :—

消事占場て代
滅由有合占理
すに權に有人
因は於にに
り左て爲依
てのはすり

た思さて代(二)
るをし占理(一)
こをむ有入本
まをるをを人
し意爲し

るを占はに(二)
こを意有第對(一)
まを思物三代
ををを者爾理
表所の後人
示持爲自
すめ己本
たへに又人

るを物人(三)
こ失のが代
まひ所占代
た持理有

ての理占
消み權有
滅にの權
せ因消は
すり滅代

- i. If the principal relinquishes the intention of causing his agent to hold possession.
- ii. If the agent expresses to his principal his intention to hold in future the thing possessed on his own behalf, or on behalf of a third person.
- iii. If the agent loses possession of the thing possessed.

The right of possession does not cease in consequence merely of the cessation of the powers of an agent.

節四第

有占準

條五百二第

を使をの本
準を以爲章
用爲てめ
す財に規
場産する
合權る定
にの意は
之行思自

SECTION IV.

QUASI-POSSESSION.

205.

The provisions of this Chapter shall extend to cases where a person exercises rights over property with the intention of doing so on his own behalf.

CHAPTER III.

章三第

OWNERSHIP.

權有所

SECTION I.

節一第

THE LIMITS OF OWNERSHIP.

界限の權有所

206.

條六百二第

An owner has, within the limits prescribed by law, the right freely to use, profit by, and deal with the thing he owns.

有分使由制所
すを用に限有
為收其内者
す益所には
權及有於法
利ひ物て令
な處の自の

207.

條七百二第

The right of ownership of land extends, within the limits prescribed by law to what is above and below it.

上て制權土
下其限は地
に土内法の
及地に令所
ふの於の有

208.

條八百二第

When several persons hold different portions of one building, having divided it amongst themselves, it is presumed that that portion of the building and its appurtenances which is used in common is common property.

る部及所を數
も分の有區入
のは其す分に
と其附るして
推共屬と各一
定有物き其棟
すにのは一の
屬共建部建
す用物を物

The cost of repairs and other charges in connection with the portion which is used in common shall be divided amongst the various

應分自の修共
しのの賃繕用
て價所擔費部
之格有は其分
なに部各他の

つ分 owners in accordance with the value of the portion of the building owned by each.

條九百二第

209.

其住に之於土
得於て地
家但を修の
に隣修牆所
立入の地す者
る承の爲は
こ使用を建
さ諾を必疆
なるを請要
得求に築は
す非する範其
さる範し近
れさ圍し傍
はこ内はに

The owner of a piece of land may, within the limits of his actual requirements demand the use of his neighbour's land for the purpose of erecting or repairing walls or buildings on the boundaries of his land, or in the vicinity. But he may not enter his neighbour's dwelling-house without his permission.

さをさ害於前
得請きをて項
る求は受隣の
す其け人場
る價たか合
こ金る損に

If under the circumstances mentioned in the preceding clause damage is caused to the neighbour, he may claim compensation.

條十百二第

210.

さばすき或
者他は土
しに其地
き通こ土
高するを
低な得
をこ池
爲すこ所
さ能は地
き亦は
同し渠者
崖若
岸若
ありは
り由に
て土に
地地
と非
と公
路行

When a piece of land is surrounded by another piece of land so as to prevent access to the public highway, the owner of this land may cross over the surrounding land in order to reach the public highway. The same rule applies in cases where it is not possible to pass from the land in question elsewhere without encountering ponds, or marshes, or streams, or ditches, or the sea, and in cases where the land is skirted by a steep bank and there is a marked difference of level between the land and the public highway.

211.

條一十百二第

In cases coming under the preceding Article the person possessing the right of way is bound in his selection of the ground to be traversed, and of the means to be employed for doing so, to choose only what is necessary and what will do the least injury to the surrounding land.

き圍る所前
も繞者及の
の地のひの
なを爲方場
選爲め法合
ふにに於
こに必通於
こを損要行
こを害し權
すも最しな
す有の
少且す場

A person possessing a right of way may if it is necessary construct a road through the surrounding land.

さなるる通
な開さ者行
得設きは權
すは必を
る通有
こ路あす

212.

條二十百二第

A person possessing a right of way is bound to pay compensation for any damage to the ground over which the right of way exists. But, except in the case of compensation paid for damage caused in connection with the construction of a road, such compensation may be paid annually.

さくしを損通
を外たを要害行
得たるすに權
一年損但對を
毎害通し有
にに路てす
其對開償る
償すの設金
金をのをは
なを爲拂通
拂ふにめふ行
ふににこ地
こ除生さの

213.

條三十百二第

When in consequence of the partition of land a piece of land from which there is no access to the public highway is created, the owner of the piece of land in question may, in order to reach the public highway, only cross over the other piece of land owned by the person with

を至其分
得地る土土割
此の爲地地に
場かめのを因
合を他所生り
に通の有し
於行分者た路
てす割はるに
はる者公さ通
償この路きせ
金と所にはさ

をを whom he has divided the ownership of the
要拂ふ ground. In these cases no compensation need be
せふこ paid.
すこ

準る部か土前 The provisions of the preceding clause also
場を其地項 extend to cases where the owner of a piece of
す合讓土の land transfers a portion of it.
に渡地所規
之しの有定
なた一者は

條四十百二第

214.

まをにり者土 The owner of a piece of land must not in-
な妨流水は地 terfere with the natural flow of water from neigh-
得くれの隣 bouring land.
する來自地所
こる然よ有

條五十百二第

215.

るをほに水 When by reason of any abnormal occurrence
工以高於流 the flow of water is obstructed in low land,
事て地てか the owner of high land may at his own expense
な其の阻事 carry out such works as may be necessary to
爲疏有しに reopen the channel of the water.
す通者たる因
こ必要はるり
さを自さ低
得な費き地

條六十百二第

216.

て地ほは爲甲 When by reason of dilapidations in works
修のし阻め地 constructed for the purpose of accumulating,
繕所又塞にに checking, or conducting water on land held by
若ほに設於 one person, or by reason of an obstruction to
く者及因けて the flow of water due to the same causes, injury
はほりた貯 is caused to land held by another person, or
疏甲する水 there is reason to apprehend that such injury may
通地嘆乙工排 be caused, the owner of the latter may compel
のあ地作水
爲所るに物又
さ有さ損のは
し者き害破引
めをほを潰水
又し乙及又の

the owner of the former to execute repairs, or to free the water channel, or he may compel him to construct works with a view to prevent the injury apprehended.

し豫必要
む防ある
る工事さ
ことなま
を爲さば
得さば

217.

條七千百二第

When in cases falling under the two preceding Articles a special local custom exists with regard to the bearing of expenses in these matters, it shall be followed.

慣習に於前
習ありて二
にるき費用
從さき別用
ふは段の場
其は合に
慣擲に

218.

條八十百二第

The owner of a piece of land must not construct any roofs or other works whereby rain water is caused to fall directly on neighbouring land.

こ工へ地直土
さ作きにち地
を物屋注にの
得を根瀉雨所
す設其せ水有
く他しな者
るのむ隣は

219.

條九十百二第

The owner of land on which there are canals or any other running water may not, when the opposite bank belongs to another person, change the direction of the flow of water, or alter the breadth of the channel.

得幅るが所濶
す員さ他有退
なき人者其
變にのほ他
す其所對の
る水有岸水
こ路にの流
さ又屬土地
なはず地の

When both banks belong to the owner of land on which there is running water, he may change the direction of the flow of water, or alter the breadth of the channel. But he is bound to restore the water to its natural exit from his land.

さてす有有兩
を自る者者岸
要然こはにの
すのさ水屬土
水之路ず地
路得及るか
に但ひさ水
復下幅ひ流
す口員は地
るにを其の
こ於變所所

222.

第二百二條二

The owner of land on which there is running water may, when it is necessary to construct a dam, connect it with the opposite bank. But he must pay compensation for any damage caused thereby.

拂たさなく水
ふるを對岸流
損得岸需地
こ害に之附の
さを對に著有
要對に著者
すし因せさ
てりしきは
償てむは堰
金を生る其な
をしこ堰設

When the owner of land on the opposite bank owns a portion of the land on which the water flows, he may make use of the dam. But he is in such case bound, in accordance with the provisions of the preceding Article, to bear a portion of the expenses incurred.

要ひさき一
す費なは部岸
用得右の
な但の其所
分前堰所有
擔條を者
すの使用は
る規用水
こ定する流
とにる地
を従この

223.

第二百二條三

The owner of a piece of land may at the joint expense of himself and the owner of adjoining land set up things to mark the boundaries.

こへて共隣土
さを疆同地
得を物界の
設標用所の
く示を者
す以さは

224.

第二百二條四

The cost of erecting and maintaining the boundary marks of adjoining lands shall be borne equally by the owners. But the cost of measuring the lands shall be divided in proportion to the areas of the respective properties.

擔度量しの界
す狭のて費標
に費之用の
應用をは設
しは負相置
て其擔隣及
之土す者
な地但平保
分の測分存

二百二十二條五

225.

二棟の建物
を異し且其
あるさし各
他の所を以て
用ゐる者其
を設くること
を以て其界を
得るに同者
を以て其界を
得るに同者

When the houses owned by different persons are separated by a piece of land not built upon, either of the owners may construct a boundary fence at the joint expense of both.

當事者
の協
議
は
六
尺
の
高
さ
に
し
て
竹
垣
に
し
て
屏
を
用
ひ
し
ま
す

When the parties cannot come to an understanding on the subject, the boundary fence must be one of six feet* in height, and be made either of boards or of bamboo.

二百二十二條六

226.

及圍障の
費用は保
存の費を
之を平用
するに於
ては其費
を負擔す

The cost of constructing and maintaining the fence shall be borne equally by the two neighbours.

二百二十二條七

227.

相隣者の
一は第二
十
五
條
に
定
め
ら
れ
る
材
料
に
よ
り
高
さ
を
定
め
る
に
あ
ら
ず
其
の
上
に
建
て
し
得
る
に
あ
ら
ず
其
の
上
に
建
て
し
得
る
に
あ
ら
ず

One of the two neighbours may, if he chooses to do so, construct the fence of better materials than those specified in the second clause of Article 225, and he may build it higher than is prescribed in that Article. But in that case he is bound to defray the additional expense.

* One Japanese foot (*kanejaku*) = about 11 ¹¹/₁₆ English inches.

228.

第二百二十八條八

When local custom is opposed to the provisions of the three preceding Articles, the local custom shall be followed.

慣るた定前
習とるに三
に慣異條
従は習な
ふ其あり規

229.

第二百二十九條九

Boundary marks, fences, walls and canals constructed on the boundary lines of adjoining lands are presumed to be the common property of the two neighbours.

定屬相牆た疆
す隣壁る界
る者及界線
もの標上
の共溝に
こ有渠國設
推には履け

230.

第二百三十條

The provisions of the preceding Article shall not apply to a wall on the boundary line which forms part of a building.

定に界部一
なは線分棟
適用上をの
條の成建
せの牆す物
す規壁疆の

The same rule applies to that part of a wall connecting two buildings of different heights which rises above the lower of the two buildings. But walls built as a protection against fire do not come under this rule.

壁部のの高
は分低建さ
此亦き物の
限同建を不
にし物隔同
在但なつな
ら防踰るる
す火仰牆二
牆る壁棟

231.

第二百三十一條一

One of two neighbours may increase the height of a wall owned by them jointly. But should the wall not bear the strain of the additional structure, the person who increased its height is bound to strengthen or to rebuild it.

築作さ但壁相
すな其の隣
る加さ其高者
こへき壁さの
こ又はかを一
をば自此増人
要す其費事共
す牆を事す有
壁以にこ有
なて耐この
改工へ得牆

屬たはなり前
する其増て項
者工し牆の
の事た壁規
専なるの定
有爲部高に
にし分さ依
 The portion of a wall which is added to its original height, in accordance with the preceding clause, belongs exclusively to the person who constructed it.

十三百二第
條二

232.

さをさ害於前
な請きをて條
得求は受隣の
す其け入場
る償たか合
こ金る損に
 If under the circumstances mentioned in the preceding Article any damage be sustained by the neighbour, he may demand compensation.

十三百二第
條三

233.

む其のるか隣
枝所さ疆地
な有き界の
を剪者は線竹
を除し其を木
得せし竹籐の
して木ゆ枝
 Should the branches of bamboos or trees growing on adjoining land extend beyond the boundary line, the owner may be compelled to cut them off.

さをさ線の隣
を取きを根地
得すは籐竹の
る之ゆ籐竹
こなる界木
 Should the roots of bamboos or trees growing on adjoining land extend beyond the boundary line, they may be cut off.

十三百二第
條四

234.

要存以よる建
す上りに物
るの一はか
こ距尺疆築
と離五界造
なな寸線す
 In the erection of buildings a space of one foot* and a half must be left between them and the boundary line.

さを建違規前
すさ築ひ定項
るんをてにの
 Should a person attempt to erect buildings in contravention of the provisions of the preceding

* See Note on page 84.

clause, the owner of the adjoining land may stop the erection of the buildings, or may compel him to alter their construction. But if a year has elapsed from the time the building operations were commenced, or if the buildings have been completed, the owner of the adjoining land can only claim compensation for damage.

價建のせ其者
の築時し建あ
請のよむ築る
求竣りなさき
の成一の廢
みし年と止は
なるをなし隣
をたる經得又地
爲す後過但はの
すこはし建之所有
損又築を者
な害は著應者
得賠其手更は

235.

Persons building windows or verandahs which are at a distance of less than three feet* from the boundary line, and which overlook the house and land of a neighbour, are bound to attach to them board-screens.

十三百二第
條五

附側を距離
すを觀離界
る設望に線
こくす於より
こるへて他
を者き三人
を要は窓尺
す目又の未
隠は宅納
を椽地の

The distance mentioned in the preceding clause shall be measured in a straight line from that point of the window or verandah which is nearest to the adjoining land to the boundary line.

か界り隣又前
測線直地は項
算に角に椽の
す至線近側距
るにきの離
まで點最は
て疆よも窓

236.

When local custom is opposed to the provisions of the two preceding Articles, the local custom shall be followed.

十三百二第
條六

慣るた定前
習さるに二
にき慣異條
従は習なの
ふ其あり規

237.

Wells, cisterns, cesspools, and manure vats must not be constructed at a distance of less than

十三百二第
條七

つ溜は水水井
にを肥溜溜戸
は穿料又下用

* See Note on page 84.

要存三以界
す尺開上疆
す以坑上池
る上穿地
こ穿のつり
こ距に又六
な離はは尺

six feet,* and ponds, vegetable pits, and privies must not be constructed at a distance of less than three feet* from the boundary line.

こ半に水
こを以は種
を要上強を
すに上の掘
す但界線埋
三距線め又
尺離より溝
を存其渠
を踊す深を
るこ穿のつ

Water pipes and ditches must not be constructed at a distance of less than half of the depth at which they are laid, or to which they are dug, as the case may be, from the boundary line. But this distance need not exceed three feet.*

十三百二第
條八

238.

注ののの疆
意透崩工界
か漏壞事線
爲は又をの
す防は爲近
こ水すさ傍
を若きに於
を必くは於
要はほはて
すな汚土前
る液砂條

When works of the nature specified in the preceding Article are executed in the vicinity of the boundary line, necessary care must be taken to guard against the crumbling away of earth or sand, and the filtering through of water or liquid filth.

* See Note on page 84.

SECTION II.

節二第

ACQUISITION OF OWNERSHIP.

得取の權有所

239.

十三百二第
條九

The right of ownership in the case of moveables which have no owner is acquired when they are held in possession with the intention of owning them.

其占の無
所有意主
有す思の
權るを動
なを以廢
取因ては
得り之所
すてを有

Immoveables which have no owner are the property of the Treasury.

に庫動無
關の產主
す所はの
有國不

240.

條十四百二第

In the case of things which are lost, the finder acquires the right of ownership if within one year from the date of public notice being given in accordance with the special law on the subject the owner is not discovered.

權さ其爲む遺
なき所しる失
取は有た所物
得捨るるには
す得の後從特
者知一ひ別
其れ年公法
所さ内告の
有るにを定

241.

十四百二第
條一

In the case of concealed treasure, the finder acquires the right of ownership if within six months from the date of public notice being given in accordance with the special law on the subject the owner is not discovered. But if the treasure is found in anything which belongs to another person,

物所知後所埋
の有れ六に藏
中權さ今從物
になる月ひは
於取さ内公特
て得きに告別
發すは其をの
見但發所爲の
し他見有し定
た人者者たむ
るの其のるる

proportion to the value of the respective moveables at the time they were united.

すな合
共威
有物

245.

十四百二第
條五

The provisions of the two preceding Articles shall extend to cases where things belonging to different owners are so mixed together that they cannot be distinguished one from the other.

にる別る別前
之にす物の二
を至るる所條
準りこ混有の規
用たこ和者定
す能してに定
場はて屬は
合さ識す各

246.

十四百二第
條六

If skilled work is applied to a thing belonging to another person, the right of ownership in the thing to which such skilled work has been applied belongs to the owner of the material. But if the value of the work applied is manifestly greater than the value of the material, the person who applied the skilled work acquires the right of ownership in the thing.

を超しのる他
取ゆた所さ人
得るる有き
すこ價者は動
き格に其産
はか屬加に
加著す工工
工し但物作
者く工のな
其材作所加
物料に有へ
のの因權た
所價りはる
有格て材者
權に生料あ

If the person who applies the skilled work supplies a portion of the materials, he acquires the right of ownership in the thing only in cases where the value of the skilled work applied by him added to the value of the material he has supplied exceeds the value of the other person's material.

す限人しと加
りのたき工
加材るは者
工料價其か
者格の價材
其價を格料
物格加にの
のにへ工一
所超た作部
有ゆるにを
權るも因供
取さのりし
得に他生る

第十四百二條七

247.

す他其消り前
の物滅て五
權のし物條
利上たのの
もにる所規
亦存さ有定
消せき權に
滅るはっ依

When by virtue of the provisions of the five preceding Articles the right of ownership in a thing ceases, all other rights which existed over the thing in question are also extinguished.

す其は右
共爾單の
有後獨物
者合所有
と成物之
爲り者と
りたる爲
るさ爲り
さ又か
きは混和
は加工物
其持物又
分の上は
のに項加
に存權工
在し利物

When the original owners of the things here-in-before mentioned are merged in one single owner of a composite thing, of things mixed up so that they cannot be distinguished one from the other, or of a thing to which skilled work has been applied, the rights mentioned in the preceding clause exist henceforth over the new things respectively in question; when the original owners become joint owners, these rights exist over their respective shares.

第十四百二條八

248.

す定及たに前
るにひる因六
こ從第者り條
さひ七はての
な價百第損規
得金四七失定
を條四七失の
請の百三受適
求規條け用

A person who incurs loss in consequence of the application of the provisions of the preceding six Articles may claim compensation in accordance with the provisions of Articles 703 and 704.

SECTION III.

節三第

JOINT OWNERSHIP.

有共

249.

十四百二第
條九

Each joint owner may use in proportion to his share the whole of the thing held in common.

得を應付有各
爲しき物共
すたる其の共
こる持全者
さ使分部は
を用に共

250.

條十五百二第

The share of each joint owner is presumed to be the same.

推も均分者各
定のしはの共
すこき相持有

251.

十五百二第
條一

A joint owner may not without the consent of the other joint owners make any change in the thing held in common.

こ變れ意の各
さはあ共
なを共る有者
得加有に者者
すふ物非のは
るにさ同他

252.

十五百二第
條二

Except in the cases mentioned in the preceding Article, matters relating to the management of things held in common shall be determined by a majority of votes according to the value of the share of each joint owner. But each joint owner may take steps individually for the preservation of the common property.

各々の前共
共以持條有
有て分の物
者之の場の
之を價合管
を决格を理
爲すに除に
す但從く關
こ保ひ外す
さ存其各
を行過共事
得爲半有項
は數者は

第一百五二第
條三

253.

其各
共同
管理
共有
の者
は
其
費用
に
對し
て
責任
を負
ふ

Each joint owner must pay his share of the cost of managing the common property and must bear all other charges connected therewith.

其有
の者
は
其
義務
を
履行
し
な
か
ば
其
他
の
共同
所有者
は
一年
間
其
の
持
分
を
没
収
し
得
る

If a joint owner fails to discharge the duties mentioned in the preceding clause for the period of one year, the other joint owners may acquire his share on payment of suitable compensation.

第一百五二第
條四

254.

共同
所有者
の
一人
が
他
の
共同
所有者
に
對し
て
何
れ
の
債
権
も
持
有
す
る
時
は
其
債
権
を
他
の
共同
所有者
に
對し
て
行使
す
る
可
い

If one of the joint owners has claims against the others he may enforce them against their specified successors.

第一百五二第
條五

255.

共同
所有者
の
一人
が
其
の
持
分
を
放棄
す
る
或
は
死
し
て
其
の
繼承
人
が
ない
時
は
其
持
分
は
其
他
の
共同
所有者
に
歸
屬
す

If one of the joint owners relinquishes his share, or dies without heirs, his share reverts to the other joint owners.

第一百五二第
條六

256.

共同
所有者
は
其
の
持
分
を
分割
す
る
を
請求
す
る
可
い
が
其
の
時
に
何
れ
の
共同
所有者
も
之
に
異
議
を
提出
す
る
可
い
な
ら
ば
分割
は
行
わ
れ
な
い

Each joint owner is free to demand at any time the division of the common property. But there is no objection to the conclusion of a contract stipulating that the property shall not be divided before the expiration of five years.

This contract may be renewed, but the period must not exceed five years from the date of renewal.

此新契約は之を更にするに於て其の期限を五年を超すを得ず

第二百五二條七

257.

The provisions of the preceding Article do not apply to the common property mentioned in Articles 208 and 229.

前二條は二百八の規程に於て規定する共同財産に適用せらるるものではない

第二百五二條八

258.

When the joint owners cannot arrive at an agreement on the subject of partition, application may be made to a Court of law.

分割の事について共同所有者が合意せざる時は、裁判官に申請し得る

If in a case coming under the preceding clause the thing held in common cannot be divided, or if it is clear that its value will be decreased by the division, a Court of law may order the common property to be sold by auction.

前項の場合に於て、共同財産を分割することにより其の価値が減少する虞があるときは、裁判官は、該共同財産を競売に付するを命ずるを得る

第二百五二條九

259.

If one of the joint owners has claims against the other joint owners in respect of the joint ownership, he may at the time of division require the debtors to satisfy his claim by means of those portions of the common property which would otherwise revert to them.

共同所有者の一人が、共同所有の債権を有する者に対して、分割の時に、他の共同所有者の所有する共同財産の一部を以て其の債権を満足せしむることを要求するを得る

債権者は右の債務者に
受くる爲め債権者の
歸すべき共有物の部
分を賣却する必要あり
るときは其賣却を請
求することを得

If in order that the creditor's claim may be satisfied it is necessary to sell those portions of the common property which would have reverted to the debtors, the creditor may demand their sale.

第二百六十六條

260.

共有物に付き各利
益を有する者は其
費用を以て
自己の債権及び
分割に參加する
ことを得

Persons who have rights in respect of a thing held in common, and creditors of individual joint owners may at their own expense participate in the division.

前項の規定に依りて
ありたる分割に依り
たりし分割に依りて
其分割に對する
た其分割に對する
ことを得ず

If, in spite of the fact that application to participate in the division has been made in accordance with the provisions of the preceding clause, the common property is divided without waiting for this participation, such division cannot be set up against the person who applied for participation.

第二百六十六條一

261.

各共有者は其他共有者
に對し其持分の賣却
責任を負ふべき者
實に其持分の賣却
の責任を負ふべき者

Each joint owner has in respect of the portions of the common property acquired by the other joint owners in consequence of the division the same responsibility as regards guarantee of title, in proportion to his share, as a seller.

262.

第十六百二第
條二

When a division has been effected, each recipient of a portion must keep the certificate relating to the thing he has received.

分割したる各部分の物に關する證書を保存すること

The certificate relating to a thing divided amongst all the joint owners, or amongst several of them, must be kept by the person who has received the largest portion of it.

共有者一同は其中の最大部分を受けたる物の證書を保存すること

If in a case coming under the provisions of the preceding clause there is no one who has received the largest portion, the recipients shall after consultation select the person who is to keep the certificate. In the event of their being unable to arrive at an agreement the selection shall be made by a Court of law.

前項の場合に於て最大部分を受けたる者なきときは協議を以て證書の保存を裁断し協議を以て證書の保存を裁定す

The keeper of the certificate must on the demand of the other recipients allow it to be used.

證書の保存者は他の請求する者に其證書をばらして用せしむることを要す

263.

第十六百二第
條三

With regard to rights of common (*Iriaiiken*) which are of the nature of joint ownership, in cases where local custom is not followed the provisions of this Section shall be applied.

共有の性質に於ては各地方會社の慣習に従はず適用す

十六百二第
條四

264.

此段を權て本
限の準を所節
に定用有の規
在めすす權規
らある但る以
す法場外は
まき令合の敷
きはに財人
別之産に

The provisions of this Section shall extend to cases where several persons have rights over property other than the right of ownership, provided that the law contains nothing to the contrary.

章四第

CHAPTER IV.

權上地

THE RIGHT OF SUPERFICIES.

十六百二第
條五

265.

權土使作の地
利地用物土上
をす又地權
有するはに者
す用爲竹於は
すめ木て他
る其を工人

A superfiary is one who has the right to use the land of another person for the purpose of owning thereon buildings, or bamboos and trees.

十六百二第
條六

266.

條乃は代所地
の至を上有上
規第二拂者權
定二百ふに者
を百七へ定か
準七十き期土
用十四さの地
す六條き地の

When a fixed ground-rent has to be paid by the superfiary to the owner of the land, the provisions of Articles 274-6, inclusive, shall be applied.

す規借付此
定にて他
を關は地
準す賃代
用る賃に

In all other cases where ground-rent is concerned the provisions relating to hiring and letting to hire shall be applied.

267.

十六百二第
條七

The provisions of Articles 209-38, inclusive, shall apply between superficiaries, and between a superficiary and the owner of the land. But the presumption established by Article 229 shall apply to a superficiary only in respect of works executed after the right of superficies has been created.

之設但土規第
を定第地定二
地後二の地九
上に百所上條
權爲二有上條
者し十者乃
にた九と者至
準る條の間又二
用工事推には百
すに定之地三
付はを上十
て地準權八
の上用者條
み權すまの

268.

十六百二第
條八

In cases where the period of duration is not fixed by the act creating the right of superficies the superficiary may, when there is no special local custom to the contrary, relinquish his right at any time. But when ground-rent has to be paid, one year's notice must be given, or one clear year's rent be paid.

なな得權り設
拂し又但者し
ふ地は場定
こは代何合行
を未の時に爲
を拂に於てな
を期ふて以て
す限も別地
のきと其段上
至さき權の權
らさる一抛な
一年棄き存
年前する期間
分にるきを
豫こは定
地告と地め
代なを上さ

When a superficiary does not avail himself of the provisions of the preceding clause and relinquish his right, a Court of law shall on the application of the parties determine the period of duration within the limits of twenty and fifty years, taking into consideration the nature and

て五の依地
工十請さり上
作年求きて權
物以には其者
又下因裁權つ
はのり判利前
竹籠二所な項
木圍十は抛の
の内年當棄規
種に以事せ定
類於上者に

期し事定他及 condition of the buildings, or of the bamboos and
 間て情の地ひ trees, and also the circumstances existing at the
 な其を當上状 time the right of superficies was created.
 定存時權況
 む續酌的設其

十六百二第
條九

269.

なしをす狀地 A superficiary may when his right ceases
 くた提るに上 restore the land to its original state, and remove
 しる供こ復權者 the buildings and the bamboos and trees. But if
 てさしては the owner of the land offers to buy these at their
 之きてなては current value, the superficiary cannot decline the
 なは得其其 offer without just reasons.
 拒地を但工權
 む上買土作利
 權取地物消
 こと者るの及滅
 得正き有竹時
 す當旨者木土
 のなを地
 理通時收を
 由知償去原

習さるに前 When local custom is opposed to the provisions
 にき慣異項 of the preceding clause, the local custom shall be
 ふ其あり規 followed.
 慣るた定

章五第

CHAPTER V.

權作小永

THE RIGHT OF EMPHYTEUSIS.

條十七百二第

270.

利はの料永 An emphyteuticary is one who possesses the
 を牧土を小 right on payment of rent as a farmer to cultivate
 有畜地拂作 the land of another person, or to rear upon it
 すをにひ人 horses and cattle.
 為耕ては
 す作他小
 權又入作

271.

十七百二第
條一

An emphyteuticary must not change the land in any way which will cause permanent injury.

永小作人は
土地に於て
土地を損傷
し或は永久
に土地の性質
を變へしむる
ことを得ず

272.

十七百二第
條二

An emphyteuticary may transfer his right to another person, or he may during the period of duration of his right sub-let the land for the purpose of agriculture or pasturage. But cases where these transactions are prohibited by the act creating the right of emphyteusis do not come under this rule.

永小作人は
土地に於て
土地を譲り
或は賃借し
得るが如し
但し其の期間
は土地の性質
を損傷し或は
永久に土地の
性質を變へし
むることを得
ず

273.

十七百二第
條三

With regard to the duties of an emphyteuticary, in so far as these are not regulated by the provisions of this Chapter and the act creating the right of emphyteusis, the provisions relating to hiring and letting to hire shall be applied.

永小作人は
土地に於て
土地を賃借
し得るが如し
但し其の期間
は土地の性質
を損傷し或は
永久に土地の
性質を變へし
むることを得
ず

274.

十七百二第
條四

Even if the income which an emphyteuticary draws from the land is affected by *vis major*, he cannot claim the remission or reduction of his rent.

永小作人は
土地に於て
土地を賃借
し得るが如し
但し其の期間
は土地の性質
を損傷し或は
永久に土地の
性質を變へし
むることを得
ず

十七百二第
條五

275.

する作益リ永
るこさよ引小
は其り續作
の少すき人
な其は三か
得のきは年不
權收五以可
利益年上抗
なを以全力
棄得上くに
た小取因

If an emphyteuticary by reason of *vis major* obtains no income whatever during a period of three successive years, or if his income during a period of five successive years or more is less than the amount of his rent, he may relinquish his right.

十七百二第
條六

276.

る小けり以永
作た又上小
権るは小作
の消破料か
滅はのの引
を地宣支續
請主告拂き
求はなを二
す永受意年

Should an emphyteuticary neglect to pay his rent for two years in succession, or should he be adjudged a bankrupt, the owner of the land may apply for the annulment of the right of emphyteusis.

十七百二第
條七

277.

慣るた定前
習るるに六
にさ慣異條
従は慣習な
ふ其あり規

When local custom is opposed to the provisions of the six preceding Articles, the local custom shall be followed.

十七百二第
條八

278.

五たを若十永
十る以し年小
年さて五以作
にき永上上權
短は小年十存
縮其作よ十年
す權權り年續
間を長き下間
は設定期さ
之定期さば
をし間す二

The period of duration of the right of emphyteusis is fixed at from twenty to fifty years. If a right of emphyteusis is created for a longer period than fifty years, it will be reduced to that period.

十八百二第
條一

281.

に目役さ地
別的地し役
的たのて權
の段たの之
のたの上は
すのるにさ
定めにさ要
め存共役
あるさす地
るす移の
さ但他轉所
き設のし權
は定權又の
此行利はの
限爲の要從

A right of easement is accessory to the right of ownership of the dominant tenement, is transferable with that right, and is subject to all other rights which exist over the dominant tenement. But cases where it is otherwise provided in the act creating the right do not come under this rule.

この又て地
目は之より
的たの役
な他をり權
得さの讓分
す爲權波離
す利しし役

A right of easement cannot be transferred separately from the dominant tenement, nor can it be made subject to other rights.

十八百二第
條二

282.

さ權地は土
をの其地
消上爲持
得滅にめ分
すせ存に有
し又す付者
むるは其一
こ役土土人

One of the joint owners of land cannot extinguish, as regards his portion of the common property, any existing easement, whether it be for or against the land in question.

關質の其波土
すに上各の地
るに因に部場
さり存の合
き土す爲に割
は地但め於又
此の地にては
限一役又は其
在部權は地一
らみ其各權の
すに性部は讓

In cases where land is divided, or a portion of it transferred, the easements whether for or against the land survive in respect of the various portions. But this rule does not apply to cases where an easement by reason of its nature concerns one portion of such land only.

283.

十八百二第
條三

Only such easements as are continuing and manifest can be acquired by prescription.

得因に且地
すり限表役
るてり現權
こ之時のは
さな効も繼
を取にの續

284.

十八百二第
條四

If one joint owner acquires an easement by prescription, it is acquired by the other joint owners.

得有る役時共
す者さ權效有
もきをなには
亦は取因の
之他得り一
なのして人
取共た地つ

An interruption of prescription made against one joint owner has no effect unless it is made against each joint owner who exercises the right of easement.

かに行効共
生非對使中
せさしす斷着
すれてるはに
け之各塊對
其な共役の
効爲有權る
力す者な時

In cases where several joint owners exercise a right of easement, even if there is a reason for the suspension of prescription as regards one of the number, prescription will continue to run for the benefit of all.

爲も時於有地
め時効て者役
に効停其數權
進は止一人を
行各の人を行
す共原にる使
有因對場す
者あし合ろ
のるてに共

285.

十八百二第
條五

If the supply of water on a servient tenement subject to an easement for the use of water is insufficient for the requirements of both the dominant and the servient tenements, the water shall, in accordance with the requirements of the respective tenements, be used first for household purposes, and what is left over shall then be applied to

も供の爲っ用
の？需め要水
さ其要に役地
す殘に不地役
但餘應足及權
設をしなひの
定他先承承役
行のつさ役地
爲用之き地
ににははの於
別供家其需於
段す用各要て
のるに地の水

定 other uses. But cases where it is otherwise provided by the act creating the right of easement do not come under this rule.

在き定 other uses. But cases where it is otherwise provided by the act creating the right of easement do not come under this rule.
 らはめ ed by the act creating the right of easement do
 す此ある ed by the act creating the right of easement do
 限る to come under this rule.
 にさ not come under this rule.

妨役の設數同 When a servient tenement is subject to several easements for the use of water, a person who has a subsequent right of easement cannot interfere with the use of the water by a person who has a prior right.

妨役の設數同 When a servient tenement is subject to several easements for the use of water, a person who has a subsequent right of easement cannot interfere with the use of the water by a person who has a prior right.
 權地定個一 easements for the use of water, a person who has
 る者役し of water, a person who has
 ここの權たる水役 a subsequent right of easement cannot interfere
 さなほさき地地 with the use of the water by a person who has a
 の使用の役上 prior right.
 すな地後な

十八百二第 條六

286.

定其地設 When the owner of a servient tenement either by the act creating the right of easement, or by special contract, undertakes the duty of erecting or repairing at his own expense buildings for the purpose of the exercise of the right of easement, this obligation is inherited by his specified successors.

定其地設 When the owner of a servient tenement either by the act creating the right of easement, or by special contract, undertakes the duty of erecting or repairing at his own expense buildings for the purpose of the exercise of the right of easement, this obligation is inherited by his specified successors.
 承繼其行所定 by the act creating the right of easement, or by
 人義務爲者又 special contract, undertakes the duty of erecting
 亦は承義に其特 or repairing at his own expense buildings for the
 之を承務工費別 purpose of the exercise of the right of easement,
 擔地負物を約 this obligation is inherited by his specified suc-
 す擔を以て因 cessors.
 者たけ地り
 のる又役承
 特さは權役

十八百二第 條七

287.

擔權地て承 The owner of a servient tenement may at any time surrender to the person who has a right of easement the ownership of that portion of his land which is necessary for the right of easement, and thus free himself from the obligation mentioned in the preceding Article.

擔權地て承 The owner of a servient tenement may at any time surrender to the person who has a right of easement the ownership of that portion of his land which is necessary for the right of easement, and thus free himself from the obligation mentioned in the preceding Article.
 免をの役地 the person who has a right of easement the ownership of that portion of his land
 るに部役地 of easement the ownership of that portion of his land
 も委分役の所 which is necessary for the right of easement, and
 こして有權に有者 how
 な前權要は何
 得條な要は何
 の地る時
 貢役土に

288.

十八百二第
條八

The owner of a servient tenement may, so long as he does not interfere with the exercise of the right of easement, make use of the buildings erected on his land for the purpose of the easement.

な上使る役承
使にの範權役
用設爲園の地
すけめ内行の
るたにに使所
こる承於有者
こ工役く妨者
な作地其けは
得物の行さ地

In these cases the owner of the servient tenement must share the cost of the construction and maintenance of the buildings, his share being proportioned to the benefit he derives.

擔及應利承前
すひし益役項
る保てを地の
存工受の場合
さの作る所合
な費用有に
すは費用の割者於
すな設合はて
分置に其は

289.

十八百二第
條九

If the possessor of a servient tenement has in the exercise of his right of possession satisfied all the conditions necessary for acquisitive prescription, the right of easement ceases.

因き占る取承
りには有條得役
て地を件時地
消役爲な效の
滅權し具に占
すはた備必有者
之るせ要者
にさるなか

290.

條十九百二第

The extinctive prescription mentioned in the preceding Article will be interrupted if the person having the right of easement exercises it.

て使つ效前
中す其は條
断る權地の
すに利役消
因を權滅
り行者時

291.

十九百二第
條一

The period of extinctive prescription established by the second clause of Article 167 shall in the case of non-continuing easements be computed

地間滅規條第
役は時定第百
權不効せ二六
に繼のる項十
付續期消に七

時きは繼時て
 り事其續より
 の之使役之
 起し妨に起
 算たく付算使
 するへてし

from the date of the last exercise of the right, and in the case of continuing easements be calculated from the time that circumstances causing interference with the exercise of the right occurred.

十九百二第
 條二

292.

に停止爲す要
 も止める役
 其はるに場
 効のさ時合
 力共はに數
 を生有其中
 ず者中斷其
 の斷又一有
 爲又は人に
 めは停の屬

In cases where a dominant tenement belongs to several joint owners, if prescription is interrupted or suspended for the benefit of one of them, the interruption, or suspension, takes effect also for the benefit of all the others.

十九百二第
 條三

293.

てみき行權地
 消時は使利役
 減效其せの
 ずに部さ一者
 因分る部か
 りのさを其

If a person having a right of easement fails to exercise a portion of his right, that portion only of his right ceases by prescription.

十九百二第
 條四

294.

す章慣付せ共
 の習てさ有
 規にはるの
 定從各入性
 なふ地會質
 準外方權を
 用本のに有

With regard to rights of common (*Iriai-ken*) which are not of the nature of joint ownership, where local custom is not followed the provisions of this Chapter shall be applied.

す之餘息つ前
るな剩に之項
こ元ある充な
を本にさし債
を充さし債
す當はは利

The fruits mentioned in the preceding clause must be employed first to meet the interest on the debt, and the balance, if any, must be applied to the discharge of the principal.

十九百二第
條八

298.

すす留の良留
置注なる置
る物を意る權
こををを管者
を占以理は
要有て者善

A person having a right of lien must exercise the care of a good manager.

は保賃く留
此存貸し置
限に必要を爲
に在るこさし
す得なる又債
す用但をの務
用其擔若承
を物保く諾
すのにはな

A person having a right of lien may not, without the consent of the debtor, use the thing detained or let it to hire, or give it as security. But this rule does not apply to such use as may be essential to the preservation of the thing.

こ消務と項留
さを滅者たの置
得ををはる規權
請留はる規定者
求置にきにか
す權は違前
るの債反二

Should a person having a right of lien violate the provisions of either of the two preceding clauses, the debtor may demand the annulment of the right of lien.

十九百二第
條九

299.

得爲者しに留
さをたる付置
なしたるき權
むして必要者
る其さき必
こはは留
さ債は置
な選所な
を有出物

If a person having a right of lien incurs necessary expenses in connection with the thing detained, he may require the owner to repay to him the sum thus expended.

のき出き留留
増はした有置
加其たる益物
か價其費に權
現格さを付

If a person having a right of lien incurs beneficial expenditure, in cases where the thing retains its increased value he may require the owner, at

章八第

CHAPTER VIII.

權特取先

PREFERENTIAL RIGHTS.

節一第

SECTION I.

則總

GENERAL RULES.

條三百三第

303.

の債権者の財産を以て自己の債権の爲すに先づけることを要す

A person who has a preferential right has in respect of the debtor's property the right, in accordance with the provisions of this Code and of other laws, to receive payment of his own claim in preference to other creditors.

條四百三第

304.

先取特權は其目的物の賣却價に優先するが、減失又は毀損に因りて他の債権者に優先するに當り、其拂渡又は引渡前に先取特權者も之を行ふことを要す

A preferential right may be exercised upon money or other things receivable by a debtor on account of the sale, letting to hire, or destruction of or damage caused to the thing which is the subject of the right. But the person having the preferential right must attach the thing before the money is paid, or the thing is handed over.

債権者の先取特權に付する物の先取特權の對設

A preferential right may similarly be exercised upon the price receivable by a debtor for a right *in rem* created by him over the thing which is the subject of the preferential right.

305.

條五百三第

The provisions of Article 296, extend to preferential rights.

第十規取之
第二定特を
百條は權
九先の用

SECTION II.

節二第

THE VARIOUS KINDS OF PREFERENTIAL RIGHTS.

權特取先
類種の

SUB-SECTION I.

款一第

GENERAL PREFERENTIAL RIGHTS.

取先の般一
權特

306.

條六百三第

A creditor whose claim arises out of the following grounds has a preferential right over the whole property of the debtor:—

權産は債因左
の債權に
有上務なり掲
すに者有生け
先のすした
取總るたる
特財者る原

- i. Expenditure incurred in the joint interests of all the creditors.
- ii. Funeral expenses.
- iii. Servants wages.
- iv. The supply of daily necessities.

用費の益共(一)

用費の式葬(二)

料給の人雇(三)

給の用(四)
供品日

months wages which the debtor's servants are entitled to receive. But the amount of such wages must not exceed fifty yen.

十料六く
圓其に个へ
を金付き月
限額き間最
さは存の後
す五在給の

310.

A preferential right having its origin in the supply of daily necessities exists in respect of the supply within the last six months of articles of food and drink, and of fire-wood, charcoal and oil necessary for the subsistence of the debtor, or of the relations and members of his family who live with him and are dependent upon him for support, and of his men and women servants.

條十百三第

の後族は日
供の及其用
給六ひ扶品
に个其養給
付月僕すの
き間婢へき
存のの先
在飲生同取
す食活居特
品にの權は
及必親は
ひ要族債
断な立務
炭るに者
油最家又

SUB-SECTION II.

PREFERENTIAL RIGHTS OVER MOVEABLES.

款二第

311.

A creditor whose claim arises out of the following grounds has a preferential right over certain specified moveables belonging to the debtor:—

取先の産動
權特

條一十百三第

特動は債因左
權産債權より
をの務を掲
有上者有生け
すにのすした
先特るたる
取定者る原

- i. The hiring or letting to hire of immoveables.
- ii. Lodging at an hotel.
- iii. The transport of travellers or luggage.

借貨産不(一)
貸の動(一)

泊宿の店族(二)

輪の荷又族(三)
運物は客(三)

失の務の公(四)
通上職吏

iv. Negligence on the part of a public functionary in the discharge of his duties.

存保の産動(五)

v. The preservation of moveables.

買賣の産動(六)

vi. The sale of moveables.

給の肥又種(七)
供料は苗

vii. The supply of seed, seedlings, or manure.

勞業農(八)
役の工

viii. Agricultural and industrial labour.

條二十百三第

312.

産務生其權不
のにし他は動
上付た貸不買
にきる貸不買
存賃賃借動賃
在借借關産の
す入人係の先
ののよ借取
動債り賃特

A preferential right having its origin in the letting to hire of an immovable exists over the debtor's moveables in respect of hire of the immovable, or any other liabilities incurred by the hirer in connection therewith.

條三十百三第

313.

果賃地建借土
賃借の物地
の人の利に又
上の用備は賃
に占に附其賃
存有供け利人
在にした用の
するたるの先
る其動産に取
土産に權は
地及其すは
のひ土る賃

The preferential right of a lessor of land exists over moveables with which the lessee has furnished either the land or the buildings which tend to its profitable use, over moveables supplied for the profitable use of the land, and over such fruits of the land as are in the possession of the lessee.

上附人先建
にけつ取物
存た其特の
在る建備賃
す動物は貸
産に賃人
の備借の

The preferential right of the lessor of a building exists over the moveables with which the lessee has furnished the building.

に手店に竝馬 hotel in respect of the lodging expenses of the
 存荷に付にの guest, and of his servants and horses or cattle, and
 在物存き飲宿 the cost of food and drink supplied.
 すのす其食泊
 上る旅料料

條八十百三第

318.

るき及客運 A preferential right having its origin in trans-
 荷運ひ又輸 port exists over luggage in the hands of the
 物送附はの transporter in respect of the fare of the traveller,
 の入隨荷先 the cost of transport of his luggage, and other
 上の物取 transporter in respect of the fare of the traveller,
 に手費の特 the cost of transport of his luggage, and other
 存に用運權 incidental expenses.
 在存に送は
 すす付賃族

條九十百三第

319.

用特前五乃第 The preferential rights mentioned in the preced-
 す權七條至百 ing seven Articles are subject to the provisions
 之の規百十 of Articles 192-5, inclusive.
 な先定九二
 準取は十條

條十二百三第

320.

の債失る權公 A preferential right having its origin in security
 上權に公は吏 furnished by a public functionary exists over that
 に因吏保保 security in respect of any claim arising out of
 存付りの證證 the security in respect of any claim arising out of
 在きて職金の negligence in the discharge of his duties.
 す其生務な
 保し上供先
 證たのし取
 金る過た特

十二百三第
 條一

321.

産存特動 A preferential right having its origin in the
 の費權産 preservation of moveables exists over the move-
 上には保 pres-ables in question in respect of the money expended
 に付動存 ables in question in respect of the money expended
 存き産の in their preservation.
 在其の先
 す動保取

The preferential right mentioned in the preceding clause exists also in respect of expenditure which is necessary for the preservation, ratification, or enforcement of rights in respect of moveables.

付に實か動前
て要行保産の
もしせし存に
亦たしむる先
存たるも取
在る費用認す
す用爲又特
にめは利は

322.

二百三第
條二

A preferential right having its origin in the sale of moveables exists over the moveables in question in respect of the price for which they were sold, and interest on the amount.

に付價特動
存き及權産
在る其ひは賣
す動其動買
産利産の
の息の先
上に代取

323.

二百三第
條三

A preferential right having its origin in the supply of seeds, seedlings or manure exists in respect of the price of the seeds, seedlings, or manure, and interest on the amount, over the fruits derived from the land on which they were used within one year from the date of use.

果用か利種
實の用息苗種
のため又兩
上たる付は料
に土るき那供
存地後其料の
在より一箱代先
す生又内又價取
しには及特
た之那ひ權
るを料其は

The preferential right mentioned in the preceding clause exists in respect of silkworms' eggs, or mulberry leaves supplied for the rearing of silkworms, over the things produced from the eggs or mulberry leaves in question.

により付し種前
もりきた又項
亦生其るはの
存し蠶蠶先
在た種葉の取
する又の飼特
す物は供養權
の桑給には
上葉に供蠶

324.

二百三第
條四

A preferential right having its origin in agricultural or industrial labour exists in the case of

役業權先勞農
者のは取役工
に勞農特の業

Cases coming under the preceding clause are subject to the provisions of the second clause of Article 321.

之項の一第
の規條第百
準第百二
用合は二
すに前項十

327.

十二百三第
條七

A preferential right having its origin in work done to an immoveable exists over the immoveable in question in respect of the cost of work done to it by an artisan, a technical expert, or a contractor.

上費關人は不
に用しか工動
存にて債匠産
在付爲務、工
すきし權、技事
其たの師の
不る不及先
動工動ひ取
産事産請特
ののに買權

In cases where the immoveable in question still retains the increased value which is the result of such work, the preferential right exists also in respect of the amount by which the value has been increased.

て合産に前
ののの因項
のにの増りの
み限増りの
存り價て先
在其か生取
す増現し特
價存た權
額するば
にる不工
付場動事

328.

十二百三第
條八

A preferential right having its origin in the sale of an immoveable exists over the immoveable in question in respect of the price for which it was sold, and interest on the amount.

産息の取不
のに代特動
上付價權産
にき及は實
存其ひ不買
在不其動の
す動利産先

節三第

SECTION III.

の權特取先
位順

THE ORDER OF PREFERENTIAL RIGHTS.

十二百三第
條九

329.

に條のに互一
從に順於に般
ふ掲位は競
けは合先
た第其す取
る三優る特
順百先場權
序六權合

When general preferential rights come into conflict with each other, the order of priority shall be that in which these rights are specified in Article 306.

て利先の權一
優益つ先さ般
先を但取競の
の受共特合先
効益權は取特
力た費はる場
なる用一場權
有總の般合と
借先のに特別
權取先於於先
者特取ては先
に權特權特取
對は權特は特
し其に別特

When general preferential rights come into conflict with special preferential rights the latter shall have priority. But a preferential right in respect of expenditure incurred in the interests of all the creditors shall have precedence as against the whole body of creditors who have benefited by it.

條十三百三第

330.

左其の權き同
の優場々特一
如先合互別の
し權ににの動
の於競先産に
順て合先取
位はす特付

In cases where special preferential rights in respect of the same moveable come into conflict, the order of priority is as follows:—

- i. Those having their origin in the letting to hire of immoveables, in lodging at an hotel, and in transport.

先泊賃(第一)
取及貸に
特運旅不
權輸店動
の宿産

ii. Those having their origin in the preservation of a moveable. But if there are several parties concerned in the preservation those later in date shall have priority.

（第二）
取特權
者あり但
の保存者
先存者は
つは前の
るさきは
の保は保
存後存先

iii. Those having their origin in the sale of moveables, in the supply of seed, seedlings, or manure, and in agricultural or industrial labour.

（第三）
種苗肥料
先取種業
取特權勞
種業供給
及役の及

If a person having a preferential right of the first rank knew at the time he acquired his right of claim of the existence of persons having preferential rights of the second or third rank, he cannot exercise his right of priority against them. The same rule applies in the case of a person who has preserved a thing for the benefit of a person having a right of lien of the first rank.

（第一）
當時第一
し者ある順
亦同の優る位
の爲先こは
しめ權さ又
に權をさは
物行知は
をふり第
保ふたの
存さこの順
したさる者
るすは位
者第一の
に順取
對權得
の

With regard to fruits, the first place in the order of priority belongs to the agricultural labourer, the second to the person who has supplied seed, seedlings, or manure, and the third to the lessor.

（果實に關しては）
の苗者果
實第順實
又は第に
三は第に
人の肥二は
に順料の農
屬位の順業
すは供位は
土給は勞第
地者種役一

331.

第十三百三
條一

When special preferential rights in respect of the same immovable come into conflict with each other, the order of priority shall be that in which these rights are specified in Article 325.

（特同）
掲はてに特
け第は競別
の三其合の
る百優す先
順二先取動
序十權場特
五の合權に
從條順に付
ふに位於互

前權賣あ付同
後の主りき一
に順相た逐不
依位互る次
るはのさの動
時優き賣産
の先は買に

When successive sales of the same immoveable take place, the order of priority as between the various sellers shall be determined by priority of sale.

十三百三第
條二

332.

を割き特き同
受合は權同一
く各者一の
應其數順目
し債入位的
て權あ物の
辨額る先に
濟のさ取付

When there are several persons who have preferential rights of the same rank in respect of the same thing, they shall receive payment in proportion to the amounts of their respective claims.

節四第

SECTION IV.

の權特取先
力效

VALIDITY OF PREFERENTIAL RIGHTS.

十三百三第
條三

333.

ふ産し三者先
こにた取の取
さ付る得其特
を後者動權は
得之に産は
すを其引を債
行動滅第務

A preferential right cannot be exercised in respect of a moveable after it has been handed over by the debtor to a third person.

十三百三第
條四

334.

は動合競動先
第三産に合産取
百質於す質特
三者は場ささ
権る權
は場ささ

When a preferential right and a right of pledge in respect of a moveable come into conflict with each other, the pledgee shall have the

same right as the preferential right of the first rank which is specified in Article 330.

十條に掲げたる優先取拂の特権は、同一順位に優先するものとする。

335.

第三百三十五條

A person having a general preferential right receives payment first out of property other than immoveables, and unless his claim is still not fully satisfied, he cannot be paid out of immoveables.

第一に不動産以外の財産に優先して受取らるべき債権は、不動産に優先して受取らるべき債権に優先するものとする。

In the case of immoveables, he must receive payment first out of things which are not the subject of special security.

不動産に優先して受取らるべき債権は、不動産に優先して受取らるべき債権に優先するものとする。

If a person having a general preferential right neglects to participate in the distribution of assets in accordance with the provisions of the two preceding clauses, he cannot exercise his preferential right, in so far as what he might have received through his participation in the distribution of assets is concerned, against a third person who has registered his right.

第一に不動産以外の財産に優先して受取らるべき債権は、不動産に優先して受取らるべき債権に優先するものとする。

The provisions of the preceding three clauses shall not be applied in cases where the distribution of the proceeds of immoveables has to take place before that of the proceeds of property other than immoveables, or where the distribution of

不動産以外の財産に優先して受取らるべき債権は、不動産に優先して受取らるべき債権に優先するものとする。

用にす代る the proceeds of immoveables which are the subject
 せはへ不 of special security takes place before that of the
 す之き動 of special security takes place before that of the
 を場配産 proceeds of other immoveables.
 適合當の

十三百三第
 條六

336.

にす權以付一
 對但者てき般
 し登に特登の
 て記對別記先
 はを抗擲を取
 此爲すを爲特
 限したるをささ
 在ら第を有さる
 す者妨る之
 者け債なに

A general preferential right in respect of an
 immoveable, even if not registered, may be set up
 against a creditor who is not specially secured,
 but not against a third person who has registered
 his right.

十三百三第
 條七

337.

保因に爲取不
 存り登完特動
 すて記了權産
 其のには保
 效爲後保存
 力す直存の
 なにち行先

A preferential right having its origin in the
 preservation of an immoveable preserves its vali-
 dity if registered immediately after the act of
 preservation has been completed.

十三百三第
 條八

338.

超を保をか不
 過超存登始動
 額ゆす記む産
 なる但する工
 付さ工前事
 ばはの因其先
 存先費り取取
 せ特か其の權
 す權豫效豫は
 其類を額事

A preferential right having its origin in work
 done to an immoveable preserves its validity if
 the amount of the estimated cost is registered
 before the work is commenced. But if the cost
 of the work exceeds the estimated cost, a prefer-
 ential right does not exist in respect of the
 amount by which the estimate is exceeded.

判加價不て工
 所入額動生事
 には産しに
 於時配のた因
 て裁當増るり

With regard to the amount by which the
 value of an immoveable is increased by the work
 done to it, this must be estimated by means of

appraisers selected by a Court of law at the time of participation in the distribution of assets.

さして選
なし之定任
要むを人し
する評をたる
こ價しる

339.

十三百三第
條九

A preferential right registered in accordance with the preceding two Articles may be exercised in preference to a right of mortgage.

ふ先權しに前
こちはた從二
さて抵るひ條
な之當先ての
得を權取登規
行に特記定

340.

條十四百三第

A preferential right having its origin in the sale of an immovable preserves its validity if at the time that the contract is made the fact of the non-payment of the price for which the land is sold, or of the interest thereon, is registered.

存る濟たは不
すにあ代賣動
因ら價買産
りさ又契賣
てるは約買
其旨を其さの
効を利同先
力を登息時取
をを認のに特
保す辨未權

341.

十四百三第
條一

In addition to the provisions of this Section the provisions relating to mortgage shall also be applied to the validity of preferential rights.

定權も節力先
なのにに取
準關の定付特
用す外めて權
する抵たはの
規當る本效

章九第

CHAPTER IX.

權質

PLEDGE.

節一第

SECTION I.

則總

GENERAL RULES.

十四百三第
條二

342.

質權者は其債權の擔保として受取たりたる物又は他の債權を占有し且其取付たる物の債權を優先して受くる権利を有す

A pledgee has possession of the thing he has received as security for his claim from the debtor, or from a third person, and has in respect thereof the right to receive payment of his claim in preference to other creditors.

十四百三第
條三

343.

質權は讓渡を以てその目的物を譲渡すことを得ず

A thing which cannot be transferred cannot be made the subject of a right of pledge.

十四百三第
條四

344.

質權は質權設定の目的物を以てその効力を生ずるに依りて創設す

A right of pledge is created by handing over the thing, which is the subject of the right.

345.

第十四百三第
條五

The pledgee cannot cause the pledger to hold possession of the thing pledged in place of himself.

かて自設質
を爲己定權
さし物に者
し物の代は
むむし占は
すむむる有
る有りて

346.

第十四百三第
條六

Unless the act creating it provides otherwise, the right of pledge is security for principal and interest, for money due for breach of contract, for the cost of exercising the right of pledge or preserving the thing pledged, and for compensation for damage arising out of the non-fulfilment of obligations, or out of some hidden defect in the thing pledged.

さ保にのの質
す因不費は
は但り用は
此設生又元
限定行し本
に行した物
在爲たる存
らるる保の
す別損の費
段害の用
の賠償及
定めらる
る擔此務
行

347.

第十四百三第
條七

The pledgee may detain the thing pledged until the claims mentioned in the preceding Article have been satisfied. But this right cannot be set up against a creditor who has the right of priority for his claim.

す優權物權質
る先利の權
こは留の權
を之辨者
有るを濟は
すををす前
以てをる條
得すくるに
す債自さ掲
權己をまけ
者に得ては
に對但ば
抗此質債

348.

第十四百三第
條八

A pledgee may on his own responsibility during the continuance of his right re-pledge the thing he has received in pledge. But if he does so, he is answerable for any damage caused by

得質を於の質
但此以て存
場す質物已權
合に物を間其
を責内
於を任に利

其失抗ささては
責に力るささ轉
に付にへれは質
任て因きは質を
すも不生を爲
亦損可せ爲

vis major which would not have occurred had the thing not been re-pledged.

十四百三第
條九

349.

む法得にの質
るにせ辨辨權
こ依し濟濟設
さらす其さ期
を約して他て
す實物にの
こ實物のを
さ定め所
を處有以爲
得分た權質
すせな權質
し方取者務

The pledger cannot either by the act creating the right of pledge, or by means of a contract made before the time for payment has arrived, arrange for the pledgee to acquire in lieu of payment ownership of the thing pledged, or to deal with it in any other manner not in accordance with the procedure established by law.

條十五百三第

350.

用質四條條第
す權條及乃二
にのひ至百
之規第九
な定三十
準は百百六

The right of pledge is subject to the provisions of Articles 296-300, inclusive, and those of Article 304.

十五百三第
條一

351.

價す權は設他
權を失定人の
有規權の債
す定した債
從ひるに實務
るさ行の者
債ひきにの擔
務はり其保
者保て務保
に證質を爲
對債物辨質
務の濟質
てに所し權
求關有又な

If a person, who in order to give security for the debt of another, has created a right of pledge, pays the debt in question, or through the enforcement of the right of pledge loses his right of ownership of the thing pledged, he has, in accordance with the provisions relating to guaranteed debts, the right to recover compensation from the debtor.

SECTION II.

節二第

THE PLEDGING OF MOVEABLES.

質産動

352.

十五百三第
條二

The pledgee of a moveable cannot set up his right of pledge against a third person unless he has been in continuous possession.

る第は有續動
こ三其すし
こ者質るて
をに質るて
得對を非質
す抗以さ者
すてれ占繼

353.

十五百三第
條三

If the pledgee of a moveable is deprived of the possession of the thing pledged, he can only recover it by bringing an action for recovery of possession.

こ其のるの動
さ質訴さ占産
な物にき有質
得を依はな權
回りを占奪者
復て有はつ
すの回れ質
るみ收た物

354.

十五百三第
條四

If the pledgee of a moveable does not receive payment of his claim, he may, when there are just reasons for so doing, make application to a Court of law for the thing pledged to be applied at once at its appraised value to the payment of his claim. But in this case he must give notice of his application beforehand to the debtor.

者に入さ動
に得充は産
其此つ評は質
請場る價正權
求合こに當者
をにさ従の
通於をひ理其
知て裁質由價
するは判物あ權
こ權に以場辦
さ者請て合濟
をは求直に受
要讓すち限け
すめるにりさ
債務こ辨繼
務さ濟定る

十五百三第
條五

355.

の質定産す數
前權しにる個
後のた付爲の
に順るきめ債
依位さ質同務
るはき權一を
設はなの擔
定其設動保

When as security for several claims several rights of pledge are created in respect of the same moveable, the order of precedence of these rights is determined by priority of date.

節三第

SECTION III.

質産動不

THE PLEDGING OF IMMOVEABLES.

十五百三第
條六

356.

を收從不質不
得益ひ動權動
を其産の産質
爲使の目質
す用用的權
こ及法た者
まひにるは

The pledgee of an immovable may, in accordance with the purpose for which it is employed, use and benefit by the immovable which is the subject of his right of pledge.

十五百三第
條七

357.

すの其費者不
負他用は動
擔不を管産
に動拂理質
任産ひの權

The pledgee of an immovable pays the cost of its management, and is answerable for all other charges upon it.

十五百三第
條八

358.

をす息債權不
得るを權者動
すこ請のは産
さ求利其質

The pledgee of an immovable cannot demand interest on his claim.

359.

第一百五十三條九

The preceding three Articles shall not be applied in cases where the act creating the right provides otherwise.

用き定爲定前
せはめに三
す之あ別設條
なる段定の
適この行規

360.

條十六百三第

An immoveable cannot be pledged for a longer period than ten years. If a right of pledge is created for a longer period, it will be reduced to ten years.

なをす十不
十の以若年動
年さてしを産
にき不之超質
短は動よの存
縮其産りる續
す期を長こ
間設きと
は定期を
之し間得ば

A right of pledge in respect of an immoveable may be renewed. But the period for which it is renewed must not exceed ten years from the date of renewal.

こり間こは不
さ十はさ之動
な年更なを産
得を新得更質
す超の但新の
ゆ時其す設
るよ期る定

361.

十六百三第
條一

The pledging of immoveables shall be subject to the provisions of the following Section, in addition to the provisions of this Section.

な外本不
準次館動
用章の産
すの規質
規定に
定のは

節四第

SECTION IV.

質利權

THE PLEDGING OF RIGHTS.

十六百三第
條二

362.

さて産質
を爲其權
得す目的は財

Rights over property may be pledged.

準前本前
用三節項
す節のの
の規質
規定權
の外に

In addition to the provisions of this Section, the provisions of the preceding three Sections shall also apply to the right of pledge mentioned in the preceding clause.

十六百三第
條三

363.

力付權權さ債
ををのの爲權
生爲設證すを
すす定書場以
にはあるに質
困り證さ於權
て書きての目
其交質債的

In cases where a claim is pledged, if it is one in respect of which a deed is executed, the creation of the right of pledge takes effect when the deed is handed over.

十六百三第
條四

364.

通務のきの指
知者規は目名
しに定第的債
又質に四さ權
は權從百爲を
第のひ六し以
三設第十たて
債定三七る質
務を債條さ權

When a claim against a specified person is pledged, the right of pledge cannot be set up against a third debtor, or against any other third person, unless, in accordance with the provisions of Article 467, notice of the fact has

been given to the third debtor, or he has given his consent.

者か之を承諾す
るに非されば
を以て第三債務
に對する第三者
を對抗すること

The provisions of the preceding clause do not apply to shares made out in the name of the shareholders

前記の規定は株
式に記名する
株式の株式を
適用せしむる
式は前記の規
定を株定

365.

第十六百三第
條五

When a debt made out in the name of the creditor of a company is pledged, the right of pledge cannot be set up against the company in question, or against any other third person, unless, in accordance with the provisions relating to the transfer of the companies' debts, the fact has been entered in the books of the company.

記名したる債権を以て質権の目的とするに關する規定は從つて質権の目的とするに關する規定を以て適用せしむることを得ず

366.

第十六百三第
條六

When a negotiable instrument* payable to order is pledged, the right of pledge cannot be set up against a third person unless the fact has been endorsed on the instrument.

指圖債権を以て質権の目的とするに關する規定は從つて質権の目的とするに關する規定を以て適用せしむることを得ず

367.

第十六百三第
條七

The pledgee may himself directly collect a claim which is the subject of his right of pledge.

質権人は質権の目的たる債権を直接に取つ

* i. e. bill of exchange or promissory note.

債権の目的物は質金の
に對する自己の債權に
りてなるべき部分に
さし得る取立つるに
るを得

When money is the subject of the claim, the pledgee may only collect the sum which corresponds to the amount of his claim.

右の債權の辨別期は第三債務者に
すべき辨別期は第三債務者に
しは質権者は第三債務者に
るべき辨別期は第三債務者に
は其供託金の合に於ては質
權は其供託金の合に於ては質

If the time for payment of the claim in question arrives before the time for payment of the claim of the pledgee, the latter may require the third debtor to deposit the money he pays in satisfaction of the claim. In this case the right of pledge exists over the money thus deposited.

債権の目的物は質金の
に對する自己の債權に
りてなるべき部分に
さし得る取立つるに
るを得

If the subject of the claim is not money, the pledgee has the right of pledge over the things he receives in satisfaction of the claim.

第三百六十六條八

368.

質権者は前條の規定に
依るる外は民事執行法に
て依るるは民事執行法に
りてなるべき部分に
さし得る取立つるに
るを得

The pledgee may exercise his right of pledge not only in accordance with the provisions of the preceding Article, but also according to the procedure laid down in the Code of Civil Procedure.

CHAPTER X.

章十第

MORTGAGE.*

權當抵

SECTION I.

節一第

GENERAL RULES.

則總

369.

十六百三第
條九

A mortgagee has in respect of the immoveable given to him as security by the debtor or a third person, without possession being transferred, the right to receive payment of his claim in advance of other creditors.

抵債三先
者常務受
ののの
權者保
は保は
債移保
務移保
者者
又又
はは
第第

Superficies and emphyteusis may be mortgaged. In these cases the provisions of this Chapter shall be applied.

地權上
恒權
常權
合此
規に
の合
す常
規に
定この
於この
にの
目亦
及及
得的
之ひ
本此
章此
場為
為抵
小

370.

條十七百三第

With the exception of buildings erected thereon the right of mortgage extends over everything attached to and forming one body with the immoveable which is the subject of the right.

抵債上
不除
之不動
除不動
上不動
物物
とと
動動
くに
に當
一產
外存
權權
及及
體に
其す
はは
ふを
附目
る抵
但成
加的
建當
設した
物地
定た
てて
るの

* Mortgage with the power of sale but not of foreclosure.

行爲に別段の定めある者四
さ及び第四の定めあり
條の規定に依り債權者
條の規定に依り債權者
す債務の履行を債權者
に在らしむるは此

But this rule does not apply to cases where the act creating the right provides otherwise, or where, in accordance with the provisions of Article 424, the creditor may cancel the act of the debtor.

第十七百三條一

371.

此條の適用は但果實に
限の取得に在らしむるは
の差押せたる後又は
の適用ありす但果實に
の取得に在らしむるは
の適用ありす但果實に

The preceding Article does not apply to fruits, except in cases where a mortgaged immoveable has been attached, or where a third person who has acquired the immoveable has received the notice mentioned in Article 381.

第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは

The proviso attached to the preceding clause will have effect only in cases where the mortgaged immoveable is attached within one year after the third person who has acquired the immoveable receives the notice mentioned in Article 381.

第十七百三條二

372.

第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは
第三條の取得に在らしむるは

The right of mortgage is subject to the provisions of Articles 296, 304 and 351.

SECTION II.

節二第

VALIDITY OF MORTGAGE.

力效の權當抵

373.

十七百三第
條三

When as security for several claims several rights of mortgage are created in respect of the same immoveable, the order of precedence of these rights is determined by priority of date.

後權しにる數
にのた付爲個
依る順るきめ
る位さ抵同債
はさ當一權
登は權のな
記其を不辦
の抵設動保
前當定産す

374.

十七百三第
條四

When a mortgagee is entitled to claim interest, or any other money payable by fixed instalments, he can only exercise his right of mortgage in respect of what is due for the last two years. In the case also of earlier instalments, if they are specially registered after they become due, the right of mortgage may be exercised from the date of registration.

其も行るる抵
登満ふ最權當
記期こ後利權
の後さのな
時特な二有
より別得年す
之登其に息
を記以付き其
行な前ては
ふ爲のの定
こし定み満期
さた期其期金
妨さに當抵を
けき付權爲請
すはてをたす

375.

十七百三第
條五

A mortgagee may give his right of mortgage as security for another claim, or he may for the benefit of another creditor of the same debtor

の爲權以其抵
債しので抵當
權又擔他當權
者同保の權者
に一さ債をは

又其順其者對
こは抵當する
ま之位當利益
を得るるるの
たを譲若他の
業渡く債
すしはめ權

transfer or relinquish his right of mortgage, or its order of priority.

抵當を數前
前當を爲人の項
後受ししの場
にのくたる合
にの登るるに
依る記さき於
るにの權は抵
附利其當抵
記の處權當
を順分の權者
し位處の者
たは利分か

If in cases coming under the preceding clause, the mortgagee deals with his right of mortgage for the benefit of several persons, the order of priority of the rights of the persons benefiting by such action shall depend on the date on which a note of the fact was added to the entry of the registration of the right of mortgage.

第十七百三
條六

376.

人承のの前
に保處規條
對證分定の
抗入するに
する抵非通
る當さし合
こ權れ又從
ま設はは主
を得定はは
す者之其債
及以之債務
其者に抵
承其者か抵
繼債當七
務之當七
權權條

In cases coming under the preceding Article, unless, in conformity with the provisions of Article 467, notice of the action taken in regard to the right of mortgage is given to the principal debtor, or his consent obtained, this action cannot be set up against the debtor in question, or his surety, or the person creating the right of mortgage, or against their successors.

抗辨は受主
濟者抵ける
の當は又債
こ承權は償
ま承承務者
を諾の承務
を以なく分
其分の承務
受利の承務
益爲したる
者受たる
に受たる
對る受たる

If the principal debtor receives the notice mentioned in the preceding clause, or signifies his consent, payments made without the consent of the persons benefiting by the action taken in regard to the right of mortgage cannot be set up against them.

得爲權の condition cannot so long as it is uncertain whether
すの間の は the condition will be fulfilled or not “clear off”
こと 濼は a mortgage.
を 除は
な を 當

十八百三第
條一

381.

知三十八を抵
取三十八を當
する條は行
る者に豫せ
こと掲めん
を其の第三
す旨たる百
通第七の七
知三十八を抵
取三十八を當
する條は行
る者に豫せ
こと掲めん
を其の第三
す旨たる百
通第七の七

If a mortgagee wishes to exercise his right of mortgage, he must give notice beforehand to the third person mentioned in Article 378 who has acquired the right of ownership, superficies or emphyteusis, in respect of the immoveable.

十八百三第
條二

382.

得除てる條第
もまの三
を抵て通
す者抵知
こと當何
を權は
濼この時
を濼に受
なく前
得除てる條第
もまの三
を抵て通
す者抵知
こと當何
を權は
濼この時
を濼に受
なく前

A third person who has acquired a mortgaged immoveable may “clear off” the mortgage at any time before he receives the notice mentioned in the preceding Article.

爲非内を第
すさに受
こは次三
を抵條取
す者た
濼の得
を抵送者
す權達さ
のは前
濼爲條
除す一
をに月

When the third person in question has received the notice mentioned in the preceding Article, he cannot “clear off” the mortgage unless he has within one month from the date of its receipt sent the documents mentioned in the next Article.

取三利八る前
得者に條後
者取に條後
の得掲第通
濼項しけ三知
を第たる百
爲第三七
權十

A third person who has acquired any of the rights mentioned in Article 378 after the notice mentioned in the preceding Article has been given can only “clear off” the mortgage

within the period within which the third person mentioned in the preceding clause is able to do so.

す限るす
り期間
之を内
を為し
得るに
得

383.

十八百三第
條三

When a third person who has acquired a mortgaged immoveable wishes to "clear off" the mortgage, he must send the following documents to each of the registered creditors:—

す為す權
に左する第三
のたるさる取
書面各は得
を送債せん
す権記と者
達をを抵
達を當

- i. A document setting forth the reasons for acquisition, the date, the full names and places of abode of the transferor and acquirer, the nature, and location of the mortgaged immoveable, the price, and the other charges borne by the acquirer.
- ii. A copy of entries in the land-register concerning the mortgaged immoveable. But entries relating to rights which have been extinguished need not be included.
- iii. When the creditors have not, in conformity with the provisions of the next Article, within the period of one month made application for the sale of the immoveable by auction in order to ob-

書他當人
面取不及
得動及
者産ひ
の取
質得
をの
記所
載在
した代
る價所
其抵讓
滅渡

掲に既す
く關する
るに消
る減
ことする
を登記
を記し
せはる
ず之勝
すな本
利に
但關

る者さひ
代は第増
價一さ
又は號に
は特は
指掲に
けた取
得せ
定得從

内三
債權者
の規定
に依り
て一個月
以内に
競賣を
請求せ
る者
は第一
號に
掲げた
取得
得

385.

十八百三第
條五

If a creditor makes application for the sale of an immoveable by auction in order to obtain a higher price, he must within the period mentioned in the preceding Article give notice of the fact to the debtor, and to the transferor of the mortgaged immoveable.

このにす債
譲債る者
な債務さ
を渡務さ
要人に及
すにひ増
之を抵前
を抵償
通當の競
知不期
す動問
る産内請

386.

十八百三第
條六

A creditor who has made application for the sale of an immoveable by auction in order to obtain a higher price cannot withdraw his application without the consent of the other registered creditors.

きは承し増
を其諾る債
得請る権
ずる他者
すをるは
取に債
消非權
すさ者
これの爲

387.

十八百三第
條七

If within the period fixed by Article 382 the mortgagee receives no notice from the third person who has acquired the land as to payment of the debt, or the "clearing off" of the mortgage, he may make application for the sale by auction of the mortgaged immoveable.

實又三條抵
なきは取に
請は濫得
求さ得者
るは除者
す抵者
る當通め
こ不知ひ
こ産務期
を受の三
得の辨百
競さ濟二

388.

十八百三第
條八

When a piece of land and the buildings upon it both belong to the same owner, and one of the two only is mortgaged, the person creating the right of mortgage will be regarded as having created for the purpose of the sale by auction a

さみて者る土
きは其に建
は抵土屬地
當と又る同
權爲は場一
設し建合上
定た物に所
者るの於有

之請但たきは競
求地る地賣
に代も上賣
む因はの權
り裁事看設
判者做定に
所のすし付

right of superficies. But the ground-rent shall be determined by a Court of law on the application of the parties.

十八百三第
條九

389.

行は競は當抵
ふ土賣當地
こ地す當に
こ代の權建
を價こ者物
にを土築
付地造其
て但さし設
の其共た定
み優る者
之先之
を權なき抵

Should the person creating a right of mortgage erect buildings on the mortgaged land after the right of mortgage has been created, the mortgagee may sell both land and buildings by auction. But he can only exercise his right of priority in respect of the price for which the land is sold.

條十九百三第

390.

得こ競得第
と爲賣者三
なる人は取

A third person who has acquired mortgaged land may bid for it when it is put up to auction.

十九百三第
條一

391.

得もにるき第
先従と必三
に其さき要取
價動第は費得
還百九は者
の十有抵
受代十益當
くる價六費不
を條を動
こて以の出
を區し
を最別た付

If a third person who has acquired a mortgaged immovable has incurred necessary or beneficial expenditure in respect thereof, he is entitled to repayment before all other creditors, according to the distinctions established by Article 196, of the sum thus expended out of the proceeds of the sale of the immovable.

十九百三第
條二

392.

數さのの債
個し擔債同
のて保權一者

If, in cases where a creditor has rights of mortgage over several immovables as security for

the same claim, the proceeds of the sale of the mortgaged immoveables have to be distributed at the same time, the claim is chargeable on the proceeds of the sale of the various immoveables in proportion to the price realized by each.

擔額をに有不
をにき其す動
分準は代産
つし其價場
て各を合
其不配に
債動當於
權産すて抵
ののへ同
負債き時な

When in similar cases the proceeds of the sale of only one of the immoveables in question have to be distributed, the mortgagee is entitled to receive payment of the whole of his claim out of the proceeds in question. Under these circumstances the mortgagee who is next in order of priority may take his place and exercise his right of mortgage to the extent of the sum the prior mortgagee was, in conformity with the provisions of the preceding clause, entitled to receive out of the proceeds of the sale of the other immoveables.

さへに場其或
な得從合代不
き金ひに價動
右於に産
のて付の
滿抵はき代
つ當次債價
の權ののみ
ま者順の
て位全を
之他に部配
の在の當
代不の辨す
位動抵濟へ
し産當をさ
に付者く
て抵當をさ
當權はる
權辨前こ
を行濟項さ
ふ受規のな
く定此は

393.

十九百三第
條三

A person exercising in conformity with the provisions of the preceding Article his right of mortgage in the place of the prior mortgagee may add a note of the fact to the entry of registration of the right of mortgage.

す登行位前
るに者因の
こ其はり規
を代其て定
得位抵抵に
を當當從
附權權ひ
記のを代

394.

十九百三第
條四

A mortgagee is entitled to receive payment from other property only in respect of that por-

て價産當者抵
辨をの不は當
濟以代動抵權

なを産て權を tion of his claim which the proceeds of the sale
 得受をのの受 of the mortgaged immoveable have failed to
 く以み部け satisfy.
 るて他分さ
 こ辨のにる
 さ濟財付償

配項用の前 The provisions of the preceding clause do not
 當のせす財項 apply to cases where the distribution of the pro-
 す規但産の cededs of the sale of other property precedes the
 へき他代價は distribution of the proceeds of the sale of the
 金額の各債配 mortgaged immoveable. But the other creditors
 の辨債權當不 may, with the object of causing the mortgagee
 供濟權者す動 to receive payment in accordance with the pro-
 託を受は抵置の visions of the preceding clause, make application
 を請け抵場代 for the deposit* of the sum to be apportioned to
 求しむる權合に先 him.
 する爲をば先
 こめし之にちて
 を之之てな
 得に前適他

十九百三第
 條五

395.

請害も賃第
 求に及こ賃六
 因ほすこを百
 其すに九を二
 解さなを抵條
 除さ其も之當
 を裁賃以を權
 命所貸ての登
 するは當抵記
 こは當權後
 を當權に期
 得者に登間
 の者對をを
 損者抗超
 ず者抗え
 する者たる

A lease for a period not exceeding that fixed by Article 602, even if registered after the registration of a right of mortgage, may be set up against the mortgagee. But if the lease is injurious to the mortgagee, a Court of law may cancel it on his application.

* See Note on page 141.

SECTION III.

節第三

NULLIFICATION OF THE RIGHT OF MORTGAGE.

滅消の權當抵

396.

十九百三第
條六

A right of mortgage cannot be extinguished by prescription so far as the debtor and the creator of the right are concerned except simultaneously with the debt for which it is the security.

效さて抵抵
に同は當當
因時其權權
りに擔設は
て非保定債
消さす者及
滅れるに者
せは債對及
す時權しひ

397.

十九百三第
條七

If a person who is neither the debtor nor the creator of the right of mortgage acquires a possession of the mortgaged immoveable which satisfies the conditions necessary for acquirable prescription, the right of mortgage is thereby extinguished.

之爲るにに債
にし條付非務
因た件きさ者
りるを取る又
てさ具得者は
消き備時つ抵
滅はせせら抵
す抵占るに當
當占必不設
權有要動定
はなな産者

398.

十九百三第
條八

If a person who has mortgaged his right of superficies, or emphyteusis, relinquishes his right, he cannot set up this relinquishment against the mortgagee.

すて棄る權地
抵し者を上
こ當たつ抵權
さ權も其當さ
な者も權さは
得に之利爲永
す對をなし小
抗以拋た作

第三編
債權

BOOK III. RIGHTS OF ACTION.*

第一章

CHAPTER I.

總則

GENERAL RULES.

第一節

SECTION I.

債權の目的

THE SUBJECTS OF RIGHTS OF ACTION.

第三百九十九條

399.

此の債權は金銭を以てするに
其目的とするものなり
雖も其目的を以てするに
見ざるも其目的を以てするに
得ざるものなり

A thing the value of which cannot be estimated in money may nevertheless be made the subject of a claim.

第四百條

400.

債權の引渡は特定の物を以てするに
債務者の引渡せるものなり
保つて引渡せるものなり
其目的を以てするに
其目的を以てするに
其目的を以てするに
其目的を以てするに

If the delivery of a specified thing is the subject of a claim, the debtor must until it is delivered exercise in keeping it the care of a good manager.

第四百一十條

401.

債權の目的は物の類に示すものなり

In cases where in indicating the subject of a claim the class of thing only is named, if the

* See Note on page 61.

に爲債のは前
之權給外二
したの付國項
なる目的の規
準場的以通定
す合さて貸

The provisions of the two preceding clauses shall apply to cases where it is stipulated that payment shall be made in foreign currency.

條三四四第

403.

すの債額外
こ爲務を國
こ通管者指
か賃管者指
かを相定通
得て場履貨
に依行たを
辨依地を以
濟り地にこ
を日本に於
爲本に於き
は債權

If the amount of a claim is specified in foreign currency, the debtor may pay in Japanese currency according to the exchange ruling at the place of performance.

條四四四第

404.

年さの債利
五分は意息
さ其表を生
す利率示す
はき段き

If in the case of claims bearing interest there is no expression of intention to the contrary, the rate of interest shall be fixed at five per cent. per annum.

條五四四第

405.

る債其りた利
い權利僅る息
こ息告場か
さを拂を合
を得はすに
元さも爲に
本に債債上
組さ務務延
入は者者滯
はかよし

If in cases where more than a year's interest is in arrears the debtor in spite of being pressed for payment by the creditor does not pay it, the creditor may add it to the principal,

條六四四第

406.

屬擇へに個債
す權き依の權
はさり給の
債き付目的
務は定中的
者其ま選の
に選る擇數

If the subject of a claim is left to be determined at option out of several modes of satisfaction, the right of option rests with the debtor.

407.

條七百四第

The right of option mentioned in the preceding Article is exercised by an expression of intention made by one party to the other.

前項に於ては、一方の當事者が、相手方に対して、行使の意思を表明するに依りて之を行使するものとす。

The expression of intention mentioned in the preceding clause cannot be cancelled without the consent of the other party.

前項の行使の意思の表明は、相手方の同意なくして取消し得ず。

408.

條八百四第

If, in cases where the payment of a claim is due, the party having the right of option, in spite of being called upon by the other party to exercise it within a specified and reasonable period, fails to do so, the right of option passes to the other party.

債権の履行期が到来し、行使の権利を有する者が、相手方より、一定の合理的期間内に行使することを求められたにもかかわらず、之を行使しないときは、行使の権利は相手方に移るとす。

409.

條九百四第

In cases where a third person has to exercise the option, it shall be done by his expressing an intention to the creditor or debtor.

第三者が行使する場合、債権者または債務者に対して、行使の意思を表明するに依りて之を行使するものとす。

If the third person in question cannot or does not wish to exercise the option, the right of option passes to the debtor.

第三者が行使せざるか、或は行使するに能はずるときは、行使の権利は債務者に移るとす。

條十百四第

410.

もこの付債
きは爲又權
に債は始の
に付たり後目的
存在するも至たる
ず其のり能
するありてな
るも給へ
るも給

If amongst the modes of satisfaction which are the subject of a claim, there are some which were from the first, or have since become, impossible, the claim exists in respect of those which remain.

定不に選
を能因擇
適用は事權
せざるを者
す前て給有
項の付過
規見るか失

The provisions of the preceding clause shall not apply to cases where a mode of satisfaction becomes impossible through the negligence of a person who has not the right of option.

條一十百四第

411.

こ權但生選
を利其の擇
得る第效時
すを客力に債
るの者を選權
の生り殘

Option takes effect retrospectively from the date of origin of the claim, provided always that the rights of a third person are not injured.

節二第

SECTION II.

力效の權債

VALIDITY OF CLAIMS.

條二十百四第

412.

のた其さき債
實る期き確務
に時限は定の
任よの債期履
すり到期行
す違來者めに
滯しはる付

If there is a fixed date for the performance of an obligation, the debtor is answerable for delay after that date has arrived.

If the date for the performance of an obligation is uncertain, the debtor is answerable for delay from the time he knows that the date has arrived.

債務の履行に付き
不確定の期は
き定られたる
限に於ては
期満に於て
は債務者に
責任を負は
るべきなり

If no date is fixed for the performance of an obligation, the debtor is answerable for delay from the time he receives a demand for its performance.

債務の履行に付き
期限の定めら
ざる債務に
は行方不明
の請求より
行方不明の
請求を受けた
時より責任
を負ふべき
なり

413.

條三十四百四第

If a creditor refuses to or cannot accept the performance of an obligation he is answerable for delay from the time the tender was made.

債務の履行に
受けるべき
債権者が
拒み又は
之を履行せ
ざるに於て
は債権者に
責任を負は
るべきなり

414.

條四十百四第

If a debtor fails to perform his obligation voluntarily, the creditor may apply to a Court of law for its compulsory performance. But this rule does not apply to obligations which by their nature do not admit of compulsory performance.

債務者が自
行に於て
債務の履行
を拒み又は
之を履行せ
ざるに於て
は債権者は
之を履行せ
しむるを
請求し得る
なり

In cases where the obligation by its nature does not admit of compulsory performance, if an act is the subject of the obligation, the creditor may apply to a Court of law to cause the act to be performed by a third person at the expense of

債権者は
債務の性質
が強制執行
に於ては
債務者の
行為を
強制執行
せしむる
に於ては
費用を
負擔する
なり

A creditor may even claim for compensation arising out of special circumstances, if the party concerned foresaw, or could have foreseen, the circumstances in question.

特別の事情に因りて生じし損害を賠償せしむべきことを得し又は賠償を請求するに當りし其の損害を豫見し得しことを得し

417.

條七十四百四第

Compensation for damage is in the absence of any expression of intention to the contrary computed in money.

損害賠償の額は、別段の意思表示を以て之を算するを以てし

418.

條八十百四第

If negligence on the part of the creditor is connected with the non-performance of an obligation, a Court of law will take this fact into consideration in determining the question of liability for compensation for damage and the sum to be awarded.

債権者の過失に因りて債務不履行の損害を賠償するに關するに責任を負はしむべき債権者の過失を酌量し賠償額を定むるに當りし

419.

條九十百四第

In the case of the non-performance of an obligation the subject of which is money the sum to be awarded as compensation for damage shall be determined in accordance with the rate of interest fixed by law. But if the rate of interest fixed by the contract exceeds the rate of interest fixed by law, the former rate shall be adopted.

金銭を目的とする債権の不履行の損害賠償額は、法律に依りて定められたる利率に依りて算定するに當りし、然し、契約に依りて定められたる利率が法律に依りて定められたる利率を超過する時は、法律に依りて定められたる利率を以て算定する

In the case of the compensation for damage mentioned in the preceding clause the creditor is

前項の損害賠償を請求するに當りし其の損害を證明するに當りし

得爲以不又さ not required to prove damage, nor can the debtor
すて可債な set up the plea of *vis major*.
こ抗抗務要
ご辯力者せ
なごなはす

條十二百四第

420.

る判得額行當 The parties may fix beforehand the amount of
こ所此をに事 compensation for damage for non-performance of
ごは場豫定きは an obligation. In this case a Court of law cannot
ご其合にす損務 increase the amount.
得額に於る賠の
すをてご償不
増はご償不
減はご償不
す裁をの履

な除行豫賠 The determenation beforehand of the amount
妨の又定價 of compensation does not preclude the institution
け請はは額 of a claim for its performance or annulment.
す求解履の

ご額之違 The fixing of a sum of money to be paid for
推の違約 breach of contract is presumed to be the deter-
定讓賠金 mination beforehand of the amount of compensation.
す定價は

十二百四第
條一

421.

にを賠も者前 The provisions of the preceding Article extend
之豫ののッ條 to cases where the parties have agreed that
を讓にを金の規
を定にを以錢規
を率し充てに定
用たつてはは
するへ損非は
傷き害さ當
合旨のる事

十二百四第
條二

422.

き者な又て債 When a creditor has received as compensation
當は受は其權 for damage the full value of the thing, or of the
然其け權債者 right, which is the subject of his claim, the debtor
債物た利權のの損 thereupon takes the place of the creditor in re-
權又とるのの害 spect of the thing or right in question.
者はとるのの目
に債はとるのの額
代利はのたの償
位に債全るご
す付務部物し

SUB-SECTION II.

款二第

INDIVISIBLE OBLIGATIONS.

務債分可不

428.

十二百四第
條八

In cases where an obligation is indivisible by reason of its nature, or of the expression of intention of the parties, if there are several creditors, any one of the number may on behalf of the whole body demand performance, and the debtor may make performance to any one of the number on behalf of the whole body.

に又者於意債
對債はて思權
し務總數表の
者債入示目
履は權のに的
行總者債因か
を債の權り其
爲權爲者て性
す者めあ不質
このる可上又
さ爲履さ分は
かめ行さなば
得各債はる營
債請債各場專
權求債合者
者し權にの

429.

十二百四第
條九

Even if novation occurs or release is given by arrangement between the debtor and one of the creditors in the case of an indivisible obligation, the other creditors may demand performance of the whole obligation. But under these circumstances the benefit which would have been apportioned to the creditor in question had he not lost his right must be returned to the debtor.

債利す他に不
落ゐるの更可
者失こ債改分
にばさ權又債
償さか者ば債
還れ得は免者
すは但債除の
る之其務あ一
こに一のり人
さ分人全たさ
か與の部る其
要す債の場債
すへ權履合務
き者行に者
利かゝ於さ
益其請ての
る權求も問

Any other act of one of the creditors in the case of an indivisible obligation, or any circumstance concerning that creditor alone which may arise, has no effect upon the other creditors.

力權た其の此
か者る一一他
生に事人人不
せ對項にの可
すしは付行分
て他き爲債
其の生又權
效債しは者

條十三百四第

430.

此乃及る數
限至準ひ場入
に第用連合か
在四す但債於不
す百四務に可分
十條百關前債
四の三すの負
規十規擔
定四規擔
は條定す

In cases where several persons are liable for an indivisible obligation the provisions of the preceding Article and the provisions relating to joint debts shall be applied, but not Articles 434-40 inclusive.

十三百四第
條一

431.

履者請已不
行は其のたる可
の責負する部分分
に任擔こときは債
すすを付て各務
に得又み各可分
付て各履者債
のの債務は自變
み務を

When an indivisible obligation is changed into one which is divisible, each creditor may demand performance in respect of his own share only, and each debtor similarly is liable only for his own share of the debt.

款三第

SUB-SECTION III.

務債帶連

JOINT OBLIGATIONS.*

十三百四第
條二

432.

行對若者る數
なしてはの一か
請求全部順入連
する又は次に債
こと總し者帶
を一部債又は債
を得部務又其負
履に者其擔
時同債

When several persons are liable for a joint obligation, the creditor may demand performance of the whole obligation, or only a part of it, either from one of the debtors, or at the same time or successively, from all the debtors.

* A joint obligation as used in the Code is one in respect of which the debtors are jointly and severally liable.

433.

十三百四第
條三

The existence of a reason for the invalidity or cancellation of a legal act in the case of one joint debtor does not impair the validity of the obligation of the others.

るのす又付連
債るはき帶
務爲取法債
なきのめ消律務
し他のの行者
力原因爲の
な債因の一
妨務の無人
く者存效に

434.

十三百四第
條四

A demand for performance made to one joint debtor has effect against all.

すも務請對連
其者求す帶
效にはる債
力對他履務
なしの行者
生て債のに

435.

十三百四第
條五

If a change in the nature of the obligation is effected between one of the joint debtors and the creditor, the latter's claim is extinguished for the benefit of all.

の總る間人連
爲債さにさ帶
め務き更債
に者は改權務
消の債あ者者
減利權りこの
す益はたの一

436.

十三百四第
條六

In cases where one joint debtor has a claim against the creditor, if the former establishes a set-off, the creditor's claim is extinguished for the benefit of all.

のさ者す權連
利きある者帶
は相場に債
の債殺合對務
爲權をにし者
めは援於ての
に總用て債一
消償し其權人
減務た債をが
す者る務有債

So long as the joint debtor having the above-mentioned claim does not plead a set-off, the plea may only be raised by the other joint debtors in so far as his share of the joint obligation is concerned.

る者分問者右
こにははかの
於付其相債
なきをて債殺權
な相の務をを
殺み者援有
を他の用する
援の負せる債
用債擔さる債
す務部る務

十三百四第
條七

437.

效者分除し連
力のにはて帶
な利付其爲債
生益て債し務
すの務た者
爲み者るの
め他の債一
にの債務人
も債擔のに
其務部免對

Release from a joint obligation given to one joint debtor operates for the benefit of the other joint debtors in so far as his share of the debt is concerned.

十三百四第
條八

438.

看な混と連
爲其同債帶
す債あ債權
た務り者務
る者たさの
もはるの
の辨さ間一
と濟き人

If the obligation of one joint debtor and the claim of the creditor become merged in the person of the former, he will be regarded as having satisfied the claim against him.

十三百四第
條九

439.

義はのた爲連
務他負るめ帶
な擔者に債
免債のき時務
る務部は效者
者分其の
もに債完一
亦付務成人
其て者しの

If prescription is completed in the case of one joint debtor, the other debtors are released from their obligations in so far as his share of the joint obligation is concerned.

條十四百四第

440.

て他き債事前
其の生務項六
效償し者を條
力務たの除に
なる一く揭
生に事人外け
せ對項に連た
すしは付帶る

With the exception of the cases mentioned in the preceding six Articles, circumstances concerning one joint debtor have no effect upon the others.

441.

第十四百四第
條一

If all or several of the joint debtors are adjudged bankrupts, the creditor may participate for the whole amount of his claim in the distribution of all assets.

連帶債務者
の破産
に依り
其債権
の全部
を清算
するに
参加す
ることを
得る

442.

第十四百四第
條二

If one joint debtor satisfies the joint obligation, or in any other way obtains at his own expense the joint release from liability of all, he has the right to claim re-imburement from the other joint debtors to the extent of their respective shares.

連帯債務者
の一人が
自己の
費用で
全部の
債務を
履行し
たとき
は、他の
債務者
の各々
の負担
分に応
じて、
償還を
請求す
る権利
を有す

The claim for re-imburement mentioned in the preceding clause includes interest at the rate fixed by law from the date of satisfaction of the obligation, or from the date on which the joint release was obtained in any other way, unavoidable expenses, and any other compensation for damage.

前項の
請求は
償還の
日以後
の法定
利率に
利息を
含む
費用
及び
其他の
損害を
賠償す
ることを
請求す
る権利
を有す

443.

第十四百四第
條三

In cases where a joint debtor on receiving a demand for payment from the creditor satisfies the joint obligation, or obtains in some other way at his own expense the joint release from liability of all, without notifying the other debtors of the fact that

連帯債務者
の一人が
債権者
の請求
に依り
自己の
費用で
全部の
債務を
履行し
たとき
は、他の
債務者
を通知
せず
して、
自己の
費用で
全部の
債務を
履行し
たこと
を知ら
ずして
償還を
請求す
る権利
を有す

shares of the joint obligation. But if the joint debtor who claims re-imbusement was guilty of negligence, he cannot call upon the other joint debtors to bear their portions of the deficiency.

すし他過制
すての失す
こ分債但
ご擔務者求
な者ら償
得請にき者
す求對ほに

445.

十四百四第
條五

In cases where a joint debtor has obtained exemption from the joint liability, if one of the other joint debtors is without sufficient means to repay his share of the obligation, the creditor bears the share which the debtor who has obtained exemption from the joint liability would have borne in respect of that portion of the joint obligation which the insolvent debtor is unable to pay.

預部其のた連
擔分無資る帶
すに實力合債
べき付者な務
部連も於の者
分帶辨のて一
な濟あの他人
免するの他
すこは債の
得たるは者
るは者申
るは者除
るは者免
るは者除
るは者得

SUB-SECTION IV.

款四第

SURETYSHIP.

務債證保

446.

十四百四第
條六

If the principal debtor does not perform his obligation, the surety is liable for its performance.

すてき償る保
責其る務債證
に履場を務人
すをに行者は
爲於せ其た

十四百四第
條七

447.

の債賠償保
を償息債證
に其違債務
含他約に務
すた總金關
るて損す主
も其害るた

The obligation of a surety includes interest on the principal debt, money due for breach of contract, compensation for damage, and everything else accessory to the obligation.

す賠償債保
る償約證
この金に人
こ額又付は
かかはて其
得約損の保
定害み證

A surety may arrange beforehand the amount to be paid by him for breach of contract, or as compensation for damage, in respect simply of his own obligation as surety.

十四百四第
條八

448.

度なよに務保
に主り付の證
減重き目人
縮き主的
すさる又買
債きるは擔
のは債體の
限之務標債

If the liability imposed on the surety is in respect of its subject or form greater than that of the principal obligation, it will be reduced to the extent of the latter.

十四百四第
條九

449.

務合債其務無
なに務取を能
買消保力に
擔きの證に
し同不原に因
た一履因たり
るの行なる取
も目又知も取
のはりのの消
さを其たかす
推有債る保
定すのさ證
するのさ契
す獨取は約得
立消主へ
ののた當
債傷る時債

If a surety who guarantees an obligation which may be cancelled on the ground of legal incapacity knew of the existence of the ground for cancellation at the time he agreed to guarantee it, in the event of its non-fulfilment, or cancellation, he is presumed to have incurred an independent and identical obligation.

450.

條十五百四第

In cases where a debtor is bound to furnish a surety the latter must satisfy the following conditions :—

立債
合つ者
はに於
て義務
を證
するに
は其入
念保ふ
を

- i. He must possess legal capacity.
- ii. He must have sufficient means to satisfy the claim.
- iii. His domicile must be in the jurisdiction of the Court of appeal exercising jurisdiction over the place of performance of the obligation, or he must have established a temporary domicile in the said jurisdiction.

二能
一力

二有
一實
二力
一辦

三有
二控
一訴
二務
一院
の
履
行
地
を
管
轄
す
る
所
に
在
る
こ
と
又
は
假
令
該
地
に
在
る
所
に
管
轄
を
定
む
る
こ
と

If a surety fails to satisfy the second or third condition mentioned in the preceding clause, the creditor may demand the substitution of another surety on the ground that the conditions in question have not been satisfied.

第保
三證
人
の
前
項
第
二
號
又
は
前
項
に
於
て
代
を
具
備
す
る
者
は
前
に
以
て
之
を
代
に
す
る
こ
と
を
得
る

The provisions of the two preceding clauses do not apply to cases where the surety has been nominated by the creditor.

前定
保は
二債
項
の
人
を
證
する
に
は
之
を
代
に
す
る
こ
と
を
得
る

451.

條十五百四第

If a debtor is unable to furnish a surety who satisfies the conditions mentioned in the

前定
保は
二債
項
の
人
を
證
する
に
は
之
を
代
に
す
る
こ
と
を
得
る

455.

第五百四
條五

If a creditor, in spite of the demand made by the surety in accordance with the provisions of Articles 452 and 453, neglects to demand performance from the principal debtor, or to proceed against his property, and cannot subsequently obtain full satisfaction of his claim from him, the surety is released from his obligation to the extent of the satisfaction the creditors would have obtained had he at once demanded performance from the principal debtor, or proceeded against his property.

限直り又保
度ち全は證
に部執四
於債行の百
て告辦を五
其濟を爲十二
義務をす條
免るさるこ
るさるを意
るさるをに
せは保後ら
は濟證主す
を人たる債
得へ債債者
り債務の依
しかよ告

456.

第五百四
條六

In cases where there are several sureties the provisions of Article 427 shall be applied, even though these sureties have incurred the obligation by separate acts.

七き債の合
條と務各に
の難を別於
規定第行は
を四し爲其
適用百たを
す十さて人

457.

第五百四
條七

A demand for the performance of an obligation made upon the principal debtor, and an interruption of prescription made against him, have effect also upon the surety.

生し斷求對
すては其す
も保他る
其證時履債
效人效行務
力にのの者
を對申請に

A surety may set up against the creditor a set-off based upon a claim of the principal debtor against the creditor.

さにを權る保
を對以に債證
得抗て依務人
す債り者は
る債相の主
こ者殺債た

第五百四十四條八

458.

定至は買入主
な第四すたる
適用百連る
す四三百債
十四三場務
十合して者
四に債か
の條於務保
規乃てな證

In cases where the principal debtor and the surety incur a joint obligation Articles 434-40, inclusive, shall be applied.

第五百四十五條九

459.

たせてへし保
る辨きた證
む濟裁る入
務へな判場か
者爲言合主
に行し渡に於
對其を於る
して他受て債
求爲自り過務
償己又失の委
權たるはなく託
を出主たして
有さ消たる債
すきは以債債
其保務者に保
證務に代證
人は消は濟を
主滅りす爲

In cases where a surety guarantees an obligation at the request of the principal debtor, if, through no fault on his part, he is ordered by a Court of law to satisfy the creditor's claim, or satisfies the claim in the place of the chief debtor, or in any other manner at his own expense causes the debt to be extinguished, he has the right to claim re-imbusement from the principal debtor.

之項の二第
をの規條四
準場定第百
用合は第四
すに前項十

In cases coming under the preceding clause the provision of the second clause of Article 442 shall be applied.

第五百四十六條

460.

行者のた委保
ふに場る託證
こ對合さを入
とにに受き
とに於はけ主
得傑て其てた
め主保保
求た證證債
償る人な務
權償は爲者
を務左しの

A surety who guarantees an obligation at the request of the principal debtor may under the following circumstances exercise in advance his right of claiming re-imbusement from him :—

十六百四第
條二

462.

て者務己證主
賠償をのたる
償を免出爲し
な當れしたる
爲時したる債
す利以て務者
こと益たるの
をる主の委
をさる債託
要さる務を
すは債受
たは償け
る主務す
限たる者し
度に其他して
に債其他
於務債自保

When a surety who guarantees an obligation, without being requested to do so by the principal debtor, satisfies the obligation, or in any other manner at his own expense causes the principal debtor to be released from his obligation, the latter must re-imburse him to the extent of the benefit he derived at the time in question from the surety's action.

か保前のほ主
り證にのみた
し入相求たる
債は殺償る債
務の權債務者
の履者有者の
行になすか意
を對有但現思
を請し其主に
求せしる利反
する相こる益
る殺を債受て
ことなを務受
を主者く保證
り張かる限を
得て求償度爲
消償したる
滅さの日に
すとき於者
へは以て者

A surety who guarantees an obligation against the wish of the principal debtor, has the right to claim re-imbursement from the latter only to the extent of the benefit which the latter is actually deriving from his action. But if before the date for claiming re-imbursement arrives the principal debtor establishes the existence of grounds for a set-off, the surety may call upon the creditor to perform the obligation which would otherwise have been extinguished by the set-off.

十六百四第
條三

463.

を證規十第
準人定三四
用には條百
す之保の四

The provisions of Article 443 extend to sureties.

其てし受債保
他善たけ務證
免意る者人
責に場保の
爲合證委主
め辨にを託た
濟於爲なる

The provisions of the same Article extend also to a principal debtor in cases where a surety guarantees an obligation at the debtor's request, and in good faith discharges the obligation, or

expends money in order to obtain his release from liability.

準規四しに
用者定百たす
すには四る
も主十三出
亦たる三き構
之條はな
を債の第爲

464.

十六百四第
條四

A surety who guarantees an obligation on behalf of one of several joint debtors, or on behalf of one of several debtors whose obligation cannot be divided, has the right to claim re-imburement from the other debtors only in respect of the portion of the debt for which each is liable.

み者な務連
ににの者帶
付對し債
きした務
求てる人者
償其者又
權負は爲
を擔他は
有擔他不
す分債可
の務證分

465.

十六百四第
條五

In cases where there are several sureties, if, owing to the fact that the principal obligation cannot be divided, or to the fact that it is expressly agreed that each of the sureties is liable for the whole amount, one surety pays the whole amount, or more than his own share, the provisions of Articles 442-444, inclusive, shall be applied.

百濟全辨か數
四し額濟不
十其す可人の
四他へ分保
條のさき自なる
規定は己特證
の規負ある
定第負あ
を四擔る
準部又
用百分め
す十二一保
條二超人證
乃ゆる人主
手額證か
第手證全
を額證た
四を人額る
辨かを債
を務

In cases which do not come under the preceding clause, if one of several sureties who are not jointly and severally liable pays the whole amount, or more than his own share, the provisions of Article 462 shall be applied.

條た部人に前
の分つ連
規定を全帶
はさ超額の
準第其ほ場
用百額他合
す四自に非
す六己證す
十二の保人
濟買のて互
二し擔一

節四第

SECTION IV.

渡讓の權債

THE ASSIGNMENT OF RIGHTS OF ACTION. *

十六百四第
條六

466.

らきを但渡債
すは許其す權
此さ性こは
限い質こ之
にるかをを
在さ之得讓

Claims may be assigned, provided always that they are of a nature which admits of their assignment.

すてする反前
善但場對項
意其合の規
この意に意定
得る第三表之は
す示示を當
對之適示事
抗以用し者
たせたッ

The provisions of the preceding clause do not apply to cases where the parties have expressed an intention to the contrary. But this expression of intention cannot be set up against a third person acting in good faith.

十六百四第
條七

467.

る者にはハ指
こ其非債名
を他さる債
のれ者債權
第三はハ務の
す之之者讓
者なかに渡
に以承通は
對て諸知讓
抗債すし渡
す務る又入

The assignment of a claim in which the creditor is specified by name cannot be set up against the debtor, or against a third person, unless the assignor has notified the debtor of the assignment, or the latter has given his consent thereto.

る外はなは前
この之以確項
を三て定の通
得る者以日知
すに債する附
對務非るは
抗者さ證承
す以れ書諾

Unless the notice or consent mentioned in the preceding clause appears in an instrument bearing a fixed date, they cannot be set up against any third person who is not the debtor.

* See Note on Page 61.

條十七百四第

470.

る者其偽指
 さまに悪務持
 は其又を負及
 濟は重大こ
 無効なるこ
 過失なるこ
 ずあ務も眞

The debtor in the case of a promissory note payable to order has the right, but is under no obligation, to examine into the right of the holder of the note, and the authenticity of the signature and seal. But if the debtor is guilty of bad faith, or gross negligence, the payment is regarded as invalid.

十七百四第
 條一

471.

すた辨も債前
 る濟其權條
 場す證者規
 合へき書な定
 之旨を指名
 を持しは證
 準附入た書
 用しにるに

The provisions of the preceding Article shall be applied in cases where, although the name of the creditor is specified in the instrument, the latter bears an endorsement directing payment to be made to the holder.

十七百四第
 條二

472.

對り債載指
 抗し權りし圖
 する事者當た債
 る事由に然たる權
 を對生事項の債
 を以抗する及ひ務者
 ざるを結其は
 得善意こな證其
 すのこを除書其
 の讓をく書の證
 入へ外書書に
 にか原質記

The debtor in the case of a promissory note payable to order, cannot set up against an assignee who has acted in good faith grounds which he could have set up against the original creditor, except when these are the natural result of the contents and nature of the instrument.

十七百四第
 條三

473.

用之債無規前
 すを權記定條
 率に名はの

The provisions of the preceding Article shall extend to promissory notes payable to bearer.

SECTION V.

節五第

THE EXTINCTION OF RIGHTS OF ACTION.*

滅消の權債

SUB-SECTION I.

款一第

THE DISCHARGE OF OBLIGATIONS.

濟辨

474.

十七百四第
條四

An obligation may be discharged by a third person, provided always that the obligation is of a nature which admits of this, and that the parties concerned have expressed no intention to the contrary.

債務の辨濟は第三者の爲すことなり。此の性質は、當事者間の意思に依りて決定する。但し、債務の性質が、第三者の履行を許さざることを要するものなる限り、第三者は、債務を履行せしむるに當りて、債務者の同意なくして、債務を履行せしむることを得ず。

A third person who has no actual interest in an obligation cannot discharge it against the wish of the debtor.

利害の關係なき第三者が、債務の履行をせしむるに當りて、債務者の同意なくして、債務を履行せしむることを得ず。

475.

十七百四第
條五

A person who in discharge of an obligation hands over to the creditor a thing belonging to another person cannot take it back unless he satisfies the claim afresh in a valid manner.

債務の履行に當りて、債権者に、債務者に屬する物を渡すことになり、債務者は、債権者に對し、該物の返還を請求する。但し、債務者が、債権者に對し、該物の返還を請求するに當りて、債権者が、該物の返還を拒むる限り、債務者は、該物を取戻すことができない。

* See Note on Page 61.

十七百四第
條六

476.

譲渡の能力なき者所有を消し其効たる辨物なる場
譲渡の能力なき者所有を消し其効たる辨物なる場
譲渡の能力なき者所有を消し其効たる辨物なる場

If, in cases where an owner who is without legal capacity to assign delivers a thing in discharge of an obligation, such discharge is cancelled, he cannot take back the thing in question unless he satisfies the claim afresh in a valid manner.

十七百四第
條七

477.

前二條の場合に債権者善意に於ては其の効を消す者賠償す
前二條の場合に債権者善意に於ては其の効を消す者賠償す
前二條の場合に債権者善意に於ては其の効を消す者賠償す

If in cases coming under the two preceding Articles a creditor acting in good faith consumes or assigns the thing he has received in satisfaction of his claim, the satisfaction is valid. But if a claim for compensation is made upon him by a third person, he is not precluded from calling upon the person who satisfied his claim to re-imburse him.

十七百四第
條八

478.

債権者善意に於ては其の効を消す者賠償す
債権者善意に於ては其の効を消す者賠償す
債権者善意に於ては其の効を消す者賠償す

Satisfaction given to the quasi-possessor* of a claim is valid only when the person satisfying the claim has acted in good faith.

十七百四第
條九

479.

前條の場合に債権者善意に於ては其の効を消す者賠償す
前條の場合に債権者善意に於ては其の効を消す者賠償す
前條の場合に債権者善意に於ては其の効を消す者賠償す

With the exception of the case mentioned in the preceding Article, satisfaction given to a person who

* See Article 205.

力濟は爲てる
な其し他給
も同給たる付
す一の給に代
のばさ付代
效辨きをへ

incumbent on him, the satisfaction thus given has the same validity as performance of the obligation.

十八百四第
條三

483.

す物へ濟の債
なき者引權
引時は渡の
渡の其目的
す現引的
こ狀渡さか
さをにきは特
をて爲は定
要其す辨物

When the delivery of a specified thing is the subject of a claim, the person satisfying the claim must deliver the thing in question in the condition in which it is at the time when its delivery is due.

十八百四第
條四

484.

於の在引の辨
て辨せ渡濟を
濟しは意思を
なば場債を爲
爲債所表示す
す債權に發なき
こ者於生なき
をの之の當き場
要時を其時所
す爲物特付
住し物定付
所其物別
に他存の段

When there is no special expression of intention as to the place in which a claim must be satisfied, the delivery of a specified thing must take place at the place where it was at the time the claim was created; in other cases the claim must be satisfied at the actual domicile of the creditor.

十八百四第
條五

485.

負たる辨
辨すに但なき
は因債の費用
きり債は其に
其て者者付
増辨か費用
加濟住は別
額の所は段
は費用移務の
債用移者意
權を轉者思
者増其之
之加他を
をしの負示

When there is no special expression of intention as to the expenses incurred in the satisfaction of a claim, the expenses in question shall be borne by the debtor. But if owing to the creditor's changing his domicile, or to any other act of his, these expenses are increased, the creditor shall be liable for the amount by which they are increased.

486.

十八百四第
條六

The person satisfying a claim may demand a formal receipt from the person who receives the satisfaction.

此を證對濟辨
こを請書し受濟
さを求て領者
なす交受者は
得る付取に辨

487.

十八百四第
條七

In cases where there are documents connected with a claim the person satisfying it may, when he has discharged the claim in full, demand their return.

このた全合債
返る部に權
さを還さの於
得なき辨て説
請は濟辨書
求其な濟あ
す證爲者
る書しか場

488.

十八百四第
條八

In cases where a debtor has incurred several obligations of an identical nature towards the same creditor, if the payment tendered by him in satisfaction is insufficient to extinguish all the claims, he may when tendering payment specify the claim to the satisfaction of which the payment is to be appropriated.

當は總合目債
す辨債に的務
へき濟務於か
債は消辨す同
務給減濟る一
指付せさ數個
定ししての債
するにむる提債者
るに供務に
て足した對
こ其らる負し
さを辨る擔て
得濟る給同
なをさ付る種
充さき場

If the person making payment does not specify, as provided in the preceding clause, the particular claim to the satisfaction of which the payment is to be appropriated, the creditor may appropriate it as he thinks fit. But this rule does not apply in cases where the debtor objects at once to the appropriation proposed.

るにすの辨
さ對こ時濟
きさしき者
はてか於は
此直得て辨
限ら但其濟
に辨辨受
在異濟濟領
ら議者指
すをの定
述を充は
其充な爲
た當爲領

爲表手て前
す示方辨二
にに濟項の
依對の充
りすの場
てる當合
之意思は
を思相に
於

In cases coming under the preceding two clauses the appropriation of the payment is effected by an expression of intention made by one party to the other.

第十八百四第
條九

489.

す其のさの當
辨規るる事
濟定さ當者
なにきをの
充從はを辨
當ひ左さ濟

If the parties do not determine how the payment is to be appropriated, its appropriation shall be regulated by the following provisions:—

先濟の濟期(一)
に期さ期に
すにめに在
在るある
るささの
もささの
のほるさ
な辨も辨濟

i. When the obligations comprise some the discharge of which is due and others the discharge of which is not yet due, the former shall have precedence.

先にさる(二)
に辨るさ(二)
す濟ささ(二)
す濟ささ(二)
の利は務
益償務
多務辨
き者期
ものの
の爲に
なめら在

ii. When all the obligations are either those the discharge of which is due, or those the discharge of which is not yet due, those the discharge of which is most advantageous to the debtor shall have precedence.

きののしに(三)
も又先辨
はつさ(三)
の先さ(三)
を先至(三)
に至は(三)
する辨(三)
する濟(三)
へも期同め

iii. When it is immaterial to the debtor how the payment is appropriated, those obligations the discharge of which was first due, or will be first due, shall have precedence.

務同にた(四)
のし付るに(四)
辨き事(四)
濟償相(四)
相償項(四)
け二

iv. When the obligations mentioned in the two preceding sub-headings, stand on

precisely the same footing, the payment shall be appropriated in proportion to the amount of each.

之額は各債務に充當するに依りての

490.

條十九百四第

The provisions of the preceding two Articles shall extend to cases where several payments have to be made for the satisfaction of a single obligation, and the person satisfying the obligation tenders payment insufficient to extinguish the whole of his liability.

條給を於個一の付消ての規を減辦給の定を爲せし者爲の準をたむか爲の用るる其す辨すに債へきとに足務きはら場のして前さ全合に二る部に敷

491.

十九百四第
條一

If, in cases where in respect of a single obligation, or of several obligations, interest and expenses have to be paid besides the principal, the person satisfying the obligation tenders payment insufficient to extinguish the whole of his liability, the satisfaction in question must be appointed to the payment of expenses, of interest, and of the principal, in the order in which these are named.

及元減合元債ひさせに本務元きし於の者外はむて外かに之る辦利一充當以足者及又するらかひは順さ其數個次に債用をの給務をの拂に費付を全ふ務に要用を爲部へきす利しをなき息た消場き

The cases mentioned in the preceding clause shall be subject to the provisions of Article 489.

用に項規十第す之の定九四を場は條百準合前の八

492.

十九百四第
條二

A tender of performance releases the debtor thenceforth from all responsibilities arising out of non-performance.

免一りり其辨れ切て不提濟しを生履供のむ責す行の時供任へに時供なき因よは

十九百四第
條三

493.

辨濟の提供は債務の本旨に従ひて現預金を爲すたる必要を通知して其受領の準備を以て足る

A tender of performance must be in accordance with the real intention of the obligation, and of an effective character. But if the creditor declines beforehand to accept the performance tendered, or when some act of the creditor is necessary to the performance of the obligation, it will be sufficient for the debtor to give notice to the creditor that he is ready to satisfy the claim, and call upon him to accept performance.

十九百四第
條四

494.

債権者か辨濟の受領を拒み又は之を託し其債務を免るべきことを確知する

If a creditor declines or is unable to accept performance, the debtor may deposit* the thing which constitutes the satisfaction, and free himself from his liability. The same rule applies in cases where a debtor through no fault of his own is unable to ascertain his creditor.

十九百四第
條五

495.

債務の履行に供託は債権者の爲すことを要す

The deposit must be made at the place of performance.

* See Note on page 141.

In cases where there is no rule of law as to the deposit-office a Court of law must on the application of the person satisfying the claim determine the deposit-office, and select a depositary.

段供託所に於ては、請及の請求を裁き、之に依りて、何れを爲すに當り、物託所を指定すに要す。

The depositor must give notice of the deposit to the creditor without delay.

供託者滞りて、債権者を知り、之を爲すに要す。

496.

第十九百四第條六

So long as the creditor has not accepted the deposit, or the decision of a Court of law declaring the deposit to be valid has not become final,* the person satisfying the claim may take back his deposit. In these cases the deposit will be regarded as not having been made.

債権者は、供託の場合に於て、其の取戻すに當り、債権の効力を失はざる限り、之を爲すに要す。

In cases where a right of pledge, or a right of mortgage, has been extinguished by the deposit the provisions of the preceding clause shall not be applied.

前項の規定は、質権の消滅を以て、之を適用せざる。

497.

第十九百四第條七

If the thing which constitutes the satisfaction, is not suitable for deposit, or if any apprehension exists as to its perishing, or sustaining injury, the person satisfying the obligation may, having obtained permission from a Court of law, sell it by auction, and deposit the proceeds. The same

若し、供託の物に、滅失の虞あるか、或は、其の價値を減ずる虞あるか、裁判官の許可を得、之を賣却し、其の代金に之を供託す。

* See Note on page 57.

亦なき物の steps may be taken in cases where the preserva-
同しするの保 tion of the thing in question entails excessive
するの存に expense.
さき費用付

十九百四第
條八

498.

はき債 In cases where a debtor has to satisfy a
其場對務者 claim in return for a payment to be made by
得供給合し者 the creditor the latter cannot receive the thing
す託付に於債
物なを於債
を受すは債
取るに債の給
る非債す
さき者へ付

十九百四第
條九

499.

位時者辨債 A person who has satisfied a claim on behalf
すをには務者 of the debtor may at the time of doing so with
る得債其を者 the creditor's consent step into the position of
こさ之者濟し為 the creditor's consent step into the position of
にののため the latter.
得代承同るに

用に項規十第
すの定七四
な場は條百
準合前の六

The provisions of Article 467 shall extend to cases coming under the preceding clause.

條百五第

500.

にては益付辨 A person who has a just interest in satisfying
代當辨有正債 a claim on behalf of the debtor by satisfying it
位然濟有正債 a claim on behalf of the debtor by satisfying it
す債にす當為 steps at once into the position of the creditor.
權因るのす
者り者利に

條一百五第

501.

さき自代依前 A person who by virtue of the provisions of
な求己位二 the two preceding Articles steps into the position
得債の權た債 of the creditor may to the extent to which his own
へき權を利る債 right entitles him to claim re-imbusement from
範すに者規定
圍に基にに

the debtor exercise all the rights concerning the validity of the claim, and the security given for the same, which the creditor possessed. The following conditions must, however, be observed :—

内にて債権の效力及び擔保として債権者有せし一切の權利を行ふに從ふことを規定す

- i. A surety does not step into the position of the creditor as against a third person who acquires an immoveable which is the subject of a preferential right, of a right of pledge in respect of an immoveable, or of a right of mortgage, unless he has beforehand noted the fact of his having stepped into the position of the original creditor in the entry of registration of the right in question.

(一) 保證人は豫め先取特權、不動産質權又は抵押權の登記に其地位を附記したるに非ざれば其先取特權、不動産質權又は抵押權の目的たるに代位せず

- ii. A third person who acquires an immoveable does not step into the position of the creditor as against a surety.

(二) 債権者對して代位する者は保證人に代て

- iii. One of several third persons who acquire immoveables can only step into the position of the creditor as against the others in proportion to the value of each immoveable.

(三) 他人は各第三者に對して其應する不動産の價に對し他に代位する者の價に對して

- iv. The provisions of the preceding sub-heading shall apply as between persons who have given their own property as security for the obligation of another.

(四) 自己の前號の財産を規定する者の擔保に他人の債務を擔保する者の間

the amount he has paid in satisfaction thereof together with interest.

なることす
償還を
利息を
要す

503.

條三百五第

A creditor who has received full satisfaction of his claim from a person who has thereby taken his place as creditor must hand over to him the documents relating to the claim, and any thing which he holds as security.

此物及者の代
をひは辨位
を代其債濟
位占權を濟
す者有に受に
に關け因
に在するりて
付するる償
す擔證債全
る保書權部

In cases where satisfaction made on behalf of a debtor extends only to a portion of a claim, the creditor must endorse the fact of the substitution on the documents relating to the claim, and must enable the person who has partially stepped into his position to supervise the preservation of the thing held by him as security.

此保代債り償
を物位權た債
要の者證の權
す保を書場一
存に合部
なて其にに
監督其代付
せ占有をばき
しに記位代
むるし債權
るし者濟
こ擔且はあ

504.

條四百五第

If, in cases where a person in accordance with the provisions of Article 500 steps into the position of creditor, the latter has either intentionally, or through negligence, lost or reduced the amount of the security, the former is released from responsibility to the extent of his inability by reason thereof to recover compensation.

たにきに者第
る因り因る五
限代りる百
度償位て場條
に還を其合に
於て為擔保於
其受すへん定
責くるるに依
を者は其喪債
免さ又は者り
る能は減者て
は少又は代
さるし又故位
に又し又意を
はたはたは爲
至減るはす
り少こ懈怠
き

款二第

SUB-SECTION II.

殺相

SET-OFF.

條五百五第

505.

い、額濟買二
るこに期擔入
さき付にす互
は得なき在る
此但相ある
限債務にさ
に在る因は
す其性質の
質債務者
の債務は
之を其債
許免對務
さる當辨を

In cases where two persons have incurred towards each other obligations of the same kind, and the discharge of each obligation is due, each may release himself from his obligation by set-off to the extent of the correspondence in amount between the two obligations. But cases where the nature of the obligations does not admit of this being done do not come under this rule.

すてする反前
る善但場對
こ意場合の
を第思に意
得三表は思
す者之を規
に之み定は
對之み表當
抗以用示事
せれた者か

The provisions of the preceding clause do not apply to cases where the parties have expressed an intention to the contrary. But this expression of intention cannot be set up against a third person who has acted in good faith.

條六百五第

506.

み件す思り相
を又但表其
得は期示相
す限意に手
を思依は常
附表示り事
する附示て者
るは之に對
こ條をを方
意は為意よ

A set-off takes place by means of an expression of intention made by one party to the other. No condition or stipulation as to time must be attached to the expression of intention.

The expression of intention, mentioned in the preceding clause takes effect retrospectively from the time when a set-off could be first established between the two obligations.

生遡に互は前
すり適に雙項
てし相方の意
其た殺の思
効るな債思
力始為務表
なにすか示

507.

條七百五第

A set-off may take place even though the places of performance of the two obligations are different. But the party making the set-off must compensate the other party for any loss he may thereby sustain.

す因事すか相
るり者こ異殺
てはこなるは
こ生其なを雙
こし相得る方
こた手相と
こたる方相と
す損に殺雖務
害對をも履
なし爲之の
賠之な行
償に當爲地

508.

條八百五第

If in the case of a claim which has been extinguished by prescription a set-off could have been established before such extinction, the creditor may make the set-off.

なほし滅し時
爲其た以効
す債る前を
こ權場に債因
こ者相權り
こはに殺か
得相於に其消
殺て適消滅

509.

條九百五第

If an obligation arises out of an unlawful act, the debtor cannot plead a set-off against the creditor.

る債者に債
こ權はこ因務
こ者相きりか
こをに殺はて不
す對を其生法
す抗を債し行
すて務た爲

510.

條十百五第

If a claim is one in respect of which attachment is prohibited, the debtor cannot plead a set-off.

こ權はさし債
こ者相きた權
こをに殺はるか
得對を其も差
す抗を債の押
する務なるを
る債者る禁

條一十五第

511.

對殺得第支
抗をし三拂
する以たる債の
るて債務差
こ差債者止
を押権はを
を債に其受
得債に依け
す者りた
に相取る

A third debtor who has received notice to withhold payment cannot by reason of a claim subsequently acquired by him plead a set-off against the creditor at whose instance payment was withheld.

條二十百五第

512.

準相條四八第
用殺の百條四
すに規九乃百
之定十至八
なほ一第十

The provisions of Articles 488-91, inclusive, shall extend to set-off.

款三第

SUB-SECTION III.

改更

NOVATION.

條三十百五第

513.

滅改さ契要當
す更き約素事
にほなを者
因はを爲か
り債を更債
て務したす
消はるるの

If the parties make a contract which changes the essential elements of an obligation, the original obligation is extinguished by novation.

行のを條無條
履變件條件
する行更な件附
亦代する變債務
しへて更するに
のは件條を無
爲は件條件
替看債を債
手做務の附債
な債務しし
發務は要又さし

The conversion of a conditional obligation into one which is unconditional, or vice versa, or the changing of the conditions of an obligation, are regarded as changes in its essential elements. The issue of a bill of exchange or a money order in lieu of performance of an obligation comes under the same category.

514.

條四十百五第

A novation which consists in the substitution of one debtor for another may be made by agreement between the creditor and the new debtor. This cannot be done, however, against the wish of the original debtor.

すのすこ意さ思さ得す
 ここのは契を反但
 意のは債者なを以
 思は債者なを以
 得反債者なを以
 す但債者なを以
 して蓋て新に
 之債之債因
 な務な務る
 爲者爲者更

515.

條五十百五第

A novation which consists in the substitution of one creditor for another cannot be set up against a third person unless it is effected by means of an instrument bearing a fixed date.

す以るこさ
 以るある債
 てにる更務
 こ第非證改
 さ三さ書は
 な者れを確
 得には以定
 す對之て日
 抗なす附因

516.

條六十百五第

The provisions of the first clause of Article 468 shall extend to novations which consist in the substitution of one creditor for another.

す改交定條第
 に替は第四
 之に債一百
 な因權項六
 準る者の十
 用更の規八

517.

條七十百五第

If owing to its being unlawful, or for reasons unknown to the parties, an obligation arising out of a novation is not definitely established, or is cancelled, the original obligation is not extinguished.

きするめ債更
 は又事又務改
 舊は由はか
 債取に當不
 務消因事法
 はさり者の
 消れての原
 滅た成知因
 せる立ちの
 すさせさ爲
 るる

518.

條八十百五第

The parties to a novation may within the limits of the subject of the original obligation transfer a right of pledge, or a right of mortgage,

質保て的は更
 權に其の舊改
 又供債限債
 はし務度務當
 抵たのにの事
 當る擔於目者

こは三す權
はた者こを
其承場こに
る承場こに
な合之を
を諾合之を
すかにな
得於供但
得於供但
てし第移

given as security for it, to the new obligation. But if this security has been furnished by a third person, his consent must be obtained.

款四第

SUB-SECTION IV.

除免

RELEASE.

條九十五第

519.

債た意務者債
權る思なに權
はこを免對者
消き表除し
滅は示すて債
す其しる債務

If the creditor makes an expression of intention to the debtor releasing him from his obligation, his right of action is extinguished.

款五第

SUB-SECTION V.

同混

MERGER.

條十二百五第

520.

限の債其人債
に目權債に權
在的權歸及
らた第ほしひ
す三消た債
き者滅るどか
のすすどか
は權但き同
此利其は一

If the claim and obligation become merged in one person, the former is extinguished. But this rule does not apply to cases where the claim is the subject of a third person's rights.

CHAPTER II.

章二第

CONTRACTS.

約契

SECTION I.

節一第

GENERAL RULES.

則總

SUB-SECTION I.

款一第

THE FORMATION OF CONTRACTS.

立成の約契

521.

二百五第
條一

A proposal for a contract in which a period for acceptance is fixed cannot be withdrawn.

をのしを承
を取申た定諾
得消込るめの
すすは契て期
こ之約爲間

If the person making the proposal does not receive notice of acceptance within the fixed period mentioned in the preceding clause, the proposal loses its validity.

を申し諾の中
失込るの期込
ふぼる通間者
其さ知内か
效きをに前
力は受承項

522.

二百五第
條二

In cases where, although notice of acceptance arrives after the expiration of the fixed period mentioned in the preceding Article, the person making the proposal is in a position to know that the notice was sent off at a time when under ordinary circumstances it would have ar-

りし到場後承
得た違合に諾
へるすに到の
きもへ於達通
さのかてし知
きなりはたか
はるし其の前
申こ時期も條
込さに間通の
者を發内常期
は知送の問

此知發遲
限其到滯
に達す
在前に
らなく
す延相
す延手
さ延要
きは通
は通但
は通但
は通但

rived within the period in question, he must without delay inform the other party of the fact that it has arrived too late.

し知さ通
もはき申
の延は承
著承意者
せ諾っ前
さのた項
す通るの

But cases where the person making the proposal has before the arrival of the notice of acceptance already informed the other party of this fact do not come under this rule.

十二百五第
條三

523.

こ込を者承
さ新に諾
を看於は
得なる申
す申之込

The person making the proposal may treat a notice of acceptance which arrives too late as a new proposal.

十二百五第
條四

524.

取申隔承
消込地諾
すに者者
こ相にの
さを當承
をなる諾
得する期
す間通し
間知申
之を申
を受込
は受は

A proposal for a contract made to a person in another place in which no period for acceptance is fixed cannot be cancelled by the person making it until after the expiration of a reasonable period for the receipt of notice of acceptance.

十二百五第
條五

525.

にの思定第
は事死を九
之實亡表申
を若示者十
適用は又七
する能は反
せず力相第
場喪手對二
合失方項
意規の

The provisions of the second clause of Article 97 shall not be applied in cases where the person making the proposal expressed a contrary intention, or if the other party knew of his death, or of his loss of legal capacity.

526.

第二百五條六

Contracts between persons living in different places are concluded when notice of acceptance is sent off.

成しの際隔
立たる通約地
する知は者
時を承間
に發諾の

In cases where by the expression of intention of the person making the proposal, or by the custom governing commercial transactions, it is not necessary to give notice of acceptance, a contract is concluded when a fact which can be regarded as an expression of intention to accept occurs.

事は要の申
實承せ償込
め諾さ習者
りたのさの
意る依思
る思場り
時表合承表
示に於の
成立認て又
すむは知取
へき約必上

527.

第二百五條七

In cases where, although notice of the withdrawal of a proposal arrives after notice of acceptance has been sent off, the person accepting the proposal is in a position to know that the notice of withdrawal was sent off at a time when under ordinary circumstances it would have arrived before notice of acceptance had been given, he must without delay inform the person making the proposal of the fact that the notice of withdrawal has arrived too late.

申込に後申
込に到に込
す者達達取
に知す達消
對りへし
して得たり
てへきし通
其延さ常か
著さきに承
の通承發の
知諾し合通
を者はに於知
發は運の發
する滯のほ
ることなる其
にくる前

If the person accepting the proposal neglects to give the notice mentioned in the preceding clause, the contract is regarded as not having been concluded.

と立さ過承
看せき知
做さりは者
すしを念
しは前
もは項
の成るの

十二百五第
條八

528.

のなる其之附承
さる申を承し諸
看込の承者
做込の諾他
すを拒し變申
為絶た更込
しとるをに
た共さ加條
るにきへ件
も新はてな

If the person accepting the proposal accepts it subject to conditions and other alterations, he is regarded as having rejected it, and as having at the same time made a new proposal.

十二百五第
條九

529.

なて為旨一或
負其を定行
ふ報を廣の爲
酬し告報を
をたるたを
興ふ者興た
るに者興る
るに對は者
務務し行き

A person who advertises that he will give a fixed remuneration to a person who performs a certain act is bound to give that remuneration to the person who performs the act.

條十三百五第

530.

表其り間定前
示廣てはし條
た告其前たの
るに中廣の場
も取を告廣行
のばを消同完
此為さこの方
限さいする者
在るを法者
ら旨得は
すな但依其
指

In cases coming under the preceding Article, so long as the act specified by the advertiser is not completed, the latter may cancel his advertisement, following in this respect the same procedure that was employed for its publication, provided always that he did not state in the advertisement that he would not cancel it.

場能を依了前
には為りる項
於さすて方
てるこ取法
は合さ消にめ

If it is impossible for him in cancelling his advertisement to follow exactly the same procedure that was employed for its publication, he

may do it in a different manner. But such cancellation is only valid as against a person who has knowledge of it.

他
の
方
法
に
依
り
て
之
を
消
去
す
る
に
あ
る
者
は
其
の
知
り
た
る
者
に
對
し
て
効
力
を
有
す

If the advertiser fixes a time within which the specified act is to be performed, he is regarded as having given up the right of cancellation.

廣
告
者
が
其
の
指
定
す
る
時
間
を
定
め
た
る
は
其
の
消
去
の
權
を
失
は
る

531.

第十三百五
條一

If several persons perform the act specified in the advertisement, the one who performs it is alone entitled to receive the remuneration.

廣
告
に
定
め
た
る
行
爲
を
行
ふ
者
は
其
の
獨
り
に
受
け
取
る
權
を
有
す

If several persons perform the act in question at the same time, each is entitled to receive an equal share of the remuneration. But if the remuneration is of a nature which makes it inconvenient to divide it, or if the advertisement states that only one person is to receive it, the recipient shall be determined by drawing lots.

數
人
が
同
時
に
右
の
行
爲
を
行
ふ
に
あ
る
は
各
々
に
均
等
の
報
酬
を
受
け
取
る
に
あ
る
が
其
の
報
酬
が
分
割
し
難
い
と
し
た
る
或
は
廣
告
に
一
人
に
限
り
て
受
け
取
ら
る
と
し
た
る
に
あ
る
は
抽
籤
に
よ
り
て
受
け
取
ら
る
者
を
定
む

In cases where the advertisement contains an expression of intention contrary to the provisions of the two preceding clauses they shall not be applied.

廣
告
に
前
二
條
の
規
定
に
反
し
て
其
の
意
思
を
表
し
た
る
は
之
を
適
用
せ
ず

其期へ其た廣
効き優る告
力ささ者に
を定き者數
有めはの定
すた其みあ
る廣にる
さ告報場
きは酬合
に應を
限募於
りのふてし

If, in cases where several persons perform the act specified in the advertisement, the remuneration is to be given only to the person who performs it best, the advertisement is only valid when it fixes a time within which the invitation must be responded to.

を定何前
め告人項
判さ若中
定りしに
すさ廣行
さ告め合
き中たに
は判者於
告定之應
者之者募
を判は中

In cases coming under the preceding clause the person named for that purpose in the advertisement shall decide which of the persons responding to the invitation has performed the specified act best. If no judge is named in the advertisement, the advertiser shall decide.

を對項應
逃しして
得ふる異
ずる議に
こ前

The persons responding to the invitation cannot dispute the decision mentioned in the preceding clause.

準第等數
用たる人
す項との
規さ判
定き行
はせ爲
前はか
條れ同

If it is decided that several persons have performed the specified act equally well, the provisions of the second clause of the preceding Article shall be applied.

SUB-SECTION II.

款二第

VALIDITY OF CONTRACTS.

力效の約契

533.

十三百五第
條三

One of the parties to a bi-lateral contract may refuse to fulfil his own obligation so long as the other party does not offer to fulfil his. But this rule does not apply to cases where the fulfilment of the other party's obligation is not yet due.

この行す手
さの債をる方務
きは務拒ま
此がむて其約
限辨こは債當
に濟まは自務
在期を己の者
らに得の履一
す 在但債行
ら 相務を方
さ 手の提は
方 履供相

534.

十三百五第
條四

If, in a case where the creation or transfer of a right *in rem* in regard to a specified thing is made the subject of a bi-lateral contract, the thing in question is for reasons for which the debtor is not responsible destroyed or injured, the loss falls upon the creditor.

毀又歸轉特
損はす場を定
は毀へ合於物
債損かにてに
權しら於雙關
者たる其務す
のるる其契物
の事約物
擔き由の權
はに債目の
歸其因務的設
す 滅り者と定
失ての爲又
又滅責しは
は失にた移

In the case of a contract relating to a thing which is not specified, the provisions of the preceding clause shall be applied from the time

に二四に關不
依項百付す特
りの一て定
て規條は契物
其定第第約に

か前た物
適項るか
用の時確
す規よ定
す定りし

that the thing has, in accordance with the provisions of the second clause of Article 401, been specified.

十三百五第
條五

535.

用失の雙前
せたる否務條
する未契約の
場合定の規定
には間の目的
はに物止
之於ヶ條件
なて條件
適減件附

The provisions of the preceding Article shall not be applied in cases where the thing which is the subject of a bi-lateral contract depending for its operation on the fulfilment of a condition precedent is destroyed before it is decided whether the condition will be fulfilled or not.

歸はた由歸物
す債るにすか
権ささへ債
者きりて務
のはてら者
買其毀さの
擲毀損る責
に損し事に

If the thing in question is injured for reasons for which the debtor is not responsible, the loss falls upon the creditor.

のを擇者に物
請求は因り債
求に從條り債
妨すひ件て務
すこの契約成毀
すこの就損者
な履合たの責
得行合たに歸
但又はるさす
損害は於てへ
賠償其はべき
除解其債事
償除權由

If the thing is injured for reasons for which the debtor is responsible, the creditor may, at his option, if the condition attached to the contract is fulfilled, claim either the performance of the contract, or its rescission. But he is not precluded thereby from claiming compensation for damage.

十三百五第
條六

536.

か責事をけ前
らに者除た二
さ歸雙くる條
す方外場は
事への當合掲

If under circumstances other than those mentioned in the two preceding Articles the performance of the obligation is rendered impossible

for reasons for which neither party is responsible, the debtor is not entitled to receive counter-satisfaction.

由依りて債権利を
履行するに反し債権者たるは
さるるに依りて債権者たるは
給付を受ける者たるは
なせす

If the performance of the contract is rendered impossible for reasons for which the creditor is responsible, the debtor does not lose his right to receive counter-satisfaction. But if he has benefited by being released from his obligation, he must return to the creditor the benefit he has obtained.

債権者に債務を返すに反し債権者たるは
債権者に債務を返すに反し債権者たるは
債権者に債務を返すに反し債権者たるは
債権者に債務を返すに反し債権者たるは

537.

第十三百五
條七

If one of the parties binds himself by the contract to make some payment to a third person, the latter is entitled to demand such payment direct from the debtor.

契約に依りて債権者たるは
契約に依りて債権者たるは
契約に依りて債権者たるは
契約に依りて債権者たるは

The right of the third person under the circumstances mentioned in the preceding clause is created when he expresses to the debtor his intention to enjoy the benefit accruing to him from the contract.

前項の場合に於て第三
者の債権利益を享受する
契約の債権利益を享受する
契約の債権利益を享受する

十三百五第
條八

538.

又事發て前
るは者生第條
こ之はし三の
さを消たる規
得減變後の定
すせ更は利依
しし當かり

After the right of the third person has in accordance with the provisions of the preceding Article been created the parties to the contract can neither change nor extinguish it.

十三百五第
條九

539.

抗受以るけ第
すくて抗た五
るへ其辯る百
こき契は契三
第約債約十
な三の務に七
得に益之因に
對をなす揭

A defence which is based on a contract such as that mentioned in Article 537 may be set up by the debtor against the third person who will benefit by the contract.

款三第

SUB-SECTION III.

除解の約契

THE RESCISSION OF CONTRACTS.

條十四百五第

540.

依にきかに契
り對は解依約
てす其除り又
之る解權當は
を意除な事法
寫思は有者律
す表相すの
示手る一規
に方と方定

If by virtue of the contract itself, or of a provision of law, one of the parties has the right to rescind it, this is done by means of an expression of intention made to the other party.

なすを示意前
得こ取は思項
すと消之表の

The expression of intention mentioned in the preceding clause cannot be cancelled.

541.

第十四百五第
條一

If one of the parties does not fulfil his obligation, the other party may call upon him to do so, fixing a reasonable period for the purpose, and, if it is not fulfilled within that period, he may rescind the contract.

解に履は履當
除を行は相行事
をな備せ者の
爲す期さるの
こと告し一方
をき若きわ其
しき者其定め
は期て相債
約間手務
の内其方な

542.

第十四百五第
條二

If, in cases where, owing to the nature of the contract, or to the expression of intention of the parties, it is impossible to accomplish the object for which the contract was made unless performance takes place at a certain fixed date, or within a fixed period, one of the parties lets the date or period pass without fulfilling his obligation, the other party may at once rescind the contract without calling upon him, as provided in the preceding Article, to fulfil his obligation.

すに契日契
し經於約時約
て過を又の
直し事爲は性
ちなる者た定又
に其さのるは質
契き日めは又
約の期目當事
の相つを内者
解手履途の意
除方行を履行
をば前さるる
爲すこと爲す
こと能すに依
を備しはに依
得告てさ非り
を其るさ一定
爲時場れ定
さ期合はの

543.

第十四百五第
條三

If for reasons for which the debtor is responsible it becomes impossible to execute the whole, or a portion, of a contract, the creditor may rescind the contract.

を債能へか履
爲権さき債行
す者爲事務の
ことはり由者全
きを契たに部
を約る因責又
得のさりにほ
解きて歸一
除はず部

第十四百五第
條四

544.

を員全は人常
爲に員契ある事
す對よりの場
こと又解合一
をのは除に方
得み其は於
之全其て數

If one of the parties consists of several persons, the rescission of the contract can only be made by all, or against all.

す者しの解前
にた一除項の
付る人權の場
てもさにか場
も付さにか合
亦はき事に
消他消者於
滅の滅中て

If under the circumstances mentioned in the preceding clause the right of rescission is extinguished as regards one of these persons, it is extinguished for all.

第十四百五第
條五

545.

を原各權常
を負狀な事
すにに當な
復に事行者
る復者使の
ことせはし一
第三し其方
者む其相る
のむる手さ
權義方其
す利務をは除

If one of the parties to a contract exercises his right of rescission, each party is bound to reinstate the other in the position he originally occupied. But the right of a third person must not thereby be injured.

す時錢て前
るよは返項
ことば還の場
に利其す場
を息受へ合
を要を領に
す附の金於

In the case of money which has to be returned under the circumstances mentioned in the preceding clause interest from the time of its receipt must be paid.

妨償使解
けのは除
す請損權
求害の
を贖行

The exercise of the right of rescission does not preclude the institution of a claim for compensation for damage.

546.

十四百五第
條六

The provisions of Article 533 shall extend to cases coming under the preceding Article.

用は條規十第
す之の定三五
か場は條百
準合前の三

547.

十四百五第
條七

When no date is fixed for the exercise of the right of rescission, the other party may fix a reasonable time, and call upon the person possessing the right to state definitely within that time whether he will or will not rescind the contract. If no notice of rescission is received within the time fixed, the right of rescission is extinguished.

さこそ相き解
るなや當は除
得否の和權
さ若や期手の
は其な間方行
解期確か使
除問答定解に
權内すめ除き
はにへ其權を
消解旨問有の
すの内にすの
通健にる定め
告知解者な
なるす除に
受るか對き
げこ爲し

548.

十四百五第
條八

If the person possessing the right of rescission by some act or negligence on his part injures the thing which is the subject of the contract, or is unable to return it, or if by executing skilled work upon it, or by re-fabrication, he changes it into a thing of another kind, his right of rescission is extinguished.

し改さ毀滅解
た遺る損失除
るにににに權
さ因至若因み
きりりり有り
はてたはてす
解之る之著る
除みさかし者
權他き返くか
はの又還契白
消種はす約已
滅類加のの
すの工こ目行
者若この的爲
にく能物又
變ははなは

If the thing which is the subject of a contract is destroyed, or injured, through no act or

のす權か目契
行るを解的約
爲者有除物の

はき損滅因又
消はし失らは
滅解た又す過
除るはし失
せす權さ毀てに

negligence on the part of the person possessing the right of rescission, the right is not extinguished.

節二第

SECTION II.

典贈

DONATIONS.

十四百五第
條九

549.

てか意にか贈
其受恩て自典
效諾を相已は
力を表手の當
な爲示方財事
生ずしに産者
すに相與なの
因手ふ無一
り方る償方

A donation takes effect when one of the parties expresses his intention to give his property to the other party without consideration, and the other party accepts the gift.

條十五百五第

550.

らに行取典書
す付の消は面
て終は各に
はりさ當依
此たを事ら
限る得者さ
に部位之る
在分履を贈

A donation which does not rest upon a document may be revoked by either party. But this rule does not apply to donations which have already been effected.

十五百五第
條一

551.

きは利る典贈
其欠の物の典
責缺瑕又目者
に疵は的は
任付又權た贈

The donor is not responsible for any flaw or defect in the thing, or right, which is the subject of the donation. But this rule does not apply to

cases where the donor had knowledge of a flaw or defect, and did not inform the donee of the fact.

在し贈を其せ
らさ者を知暇す
きにり疵但
は告て又贈
此け之は興
限さを欠者
りに受缺か

In the case of donations subject to a charge the donor has the same responsibility of guarantee as a seller to the extent of the charge.

のさ度は付負
責同に其ては擔
に於負は附
くて擔贈贈
す擔實の興與
保主限者に

552.

第五百五
條二

A donation the subject of which is a payment of money at a fixed date loses its validity by the death of the donor or donee.

効亡は與目定
力に受は的期
因贈贈との
を失り者興す給
ふての者る付
其死又贈を

553.

第五百五
條三

In the case of donations subject to a charge the provisions relating to bi-lateral contracts shall be applied in addition to the provisions of this Section.

用關のて負
すす外は擔
る雙本附
規務節贈
定契の興
な約規に
適に定付

554.

第五百五
條四

Donations which take effect by the donor's death are subject to the provisions relating to bequests.

ふす興なに贈
るは生因興
規遺すり者
定贈へての
ににき效死
從關贈力亡

節三第

SECTION III.

買賣

SALE.

款一第

SUB-SECTION I.

則總

GENERAL RULES.

十五百五第
條五

555.

其方轉或賣
效さかす財買
力な之る産は
約にこ權當
生其さな事
ず代を相者
すに金約手
因なし方一
り拂相に方
てふ手移ッ

Sale is effected when one of the parties agrees to transfer some right over property to the other party, and the latter agrees to pay a price for it.

十五百五第
條六

556.

力時思買約賣
なよなをば買
生り表完相の
す賣示結手一
買しす方方
のたるかの
效る意賣際

A promise to sell made by one of the parties takes effect from the time that the other party expresses his intention to make the sale complete.

や内のさき前
否に期き期項
や賣間は問の
な買を譲を意
確を定約定思
答を完め者め表
す結其はさ示
へず期相り
きる間當し付

If no time is fixed for making the expression of intention mentioned in the preceding clause, the promisor may fix a reasonable time, and call upon the other party to state definitely within that time whether he will make the sale complete or

not. If the other party fails to give a definite reply within the time fixed, the promise loses its validity.

旨を相手方に相手が承諾するに依りて其の効力を失ふ

557.

第五百五十七條

When bargain money is given by the buyer to the seller, so long as performance by one of the parties has not commenced, the contract may be cancelled by the buyer by the relinquishment of the bargain money, and by the seller by the payment of twice the amount of the bargain money.

買主は其の買金を支拂ふに當りて其の買金を受領する迄に賣主は其の買金を受領する迄に買主は其の買金を返却し得ることを得る

The provisions of the third clause of Article 545 do not apply to cases coming under the preceding clause.

第五項の規定は前項の場合に適用せらるることを得ない

558.

第五百五十八條

The expenses connected with a contract of sale shall be borne equally by both parties.

買賣契約に關する費用は買手及び賣手と均等に負擔する

559.

第五百五十九條

The provisions of this section shall extend to other non-gratuitous contracts besides contracts of sale, provided always that the nature of the contract admits of this being done.

本節の規定は買賣契約以外に於ける契約に於て之の性質が之を許す限り適用せらるることを得る

款二第

SUB-SECTION II.

力效の買賣

VALIDITY OF SALE.

條十六百五第

560.

る之其た賣他
義を權ある買人の
務を買利さのの
主を主さき目的利
負に取はは的利
ふ移得賣さか
轉し主爲以
すてはして

If another person's right is made the subject of a sale, the seller is bound to acquire it, and transfer it to the purchaser.

十六百五第
條一

561.

害主爲さ權前
賠にす能利條
償屬こばをの
の請せさる取場
求さな得さしに
をこ但きて於
爲さ契は之て
すこ約買を賣
こ知の主買主
り當は主か
を時契に其
得る其約移賣
すさ權の轉却
き利解すした
はの除るこ
損賣なこる

If in a case coming under the preceding Article the seller is unable to acquire and transfer to the purchaser the right he has sold, the latter may rescind the contract. But if at the time of making the contract he knew that the right did not belong to the seller, he cannot claim compensation for damage.

十六百五第
條二

562.

りこ已たる當賣
しごに時主
場を屬權其か
合にせ利買約
にらさの却約
於さる自し

If a seller, who at the time of making the contract did not know that the right did not belong to him, is unable to acquire and transfer

it to the purchaser, he may pay compensation for damage, and rescind the contract.

て之其
買主は能は主利
な損は主にな
得の害を移取
解を除るさずし
除を賠償さす
な爲償きして
すしはる

If in a case coming under the preceding clause the purchaser knew at the time of making the contract that the right bought by him did not belong to the seller, the latter may simply inform the purchaser that he is unable to transfer to him the right he has sold, and cancel the contract.

しか買主の時前
て移主に其項
契購にこ買の
約對しを場合
のるしをけ
解の單に知た
除さり於
な能其た權
爲は覆る利
す却さの買
こさるし主
か旨は主契
かをすは主約
得通賣にの
知利はせ當

563.

十六百五第
條三

If a portion of the right which is sold cannot be transferred by the seller to the purchaser because it belongs to another person, the purchaser may demand a reduction of the price to an extent corresponding to the deficient portion.

を分るを他賣
請求の買人買
する割主に買
る合はに屬目
に買移的
こ應主轉る
さしほすた
をて其る因權
得代足こり利
金のさ買の
のさ能主一
減るは部
額部さ之

If under the circumstances mentioned in the preceding clause the purchaser, owing to a portion only of the right being available, would not have made the purchase, he may, if he acted in good faith, rescind the contract.

解善さは存前
除意の買す項
なへ主るの
爲買かっ部場
す主り之分合
こはしをの
さ契さ買みに
な約き受於
得のははれ殘

A purchaser who has acted in good faith is not precluded by the fact of his having demanded

善解契求額代
意除約又の金
のはのば請減

賠償主の損害請求を妨げず

 a reduction of the price, or his having rescinded the contract, from claiming compensation for damage.

十六百五第
 條四

564.

善前條に定めたる権利は買主の意思なりしとき一年以内に之を行はざれば

The rights specified in the preceding Article must be exercised, in the case of a purchaser who has acted in good faith, within one year from the time he became aware of the facts, and, in the case of a purchaser who has acted in bad faith, within one year from the time of making the contract.

十六百五第
 條五

565.

數を指示して賣買したる物の一部に於て當時既及滅失したる物に於て買主が其不足たる部を知らざれば

In cases where a deficiency occurs in things sold according to number, quantity, or weight, or where at the time of making the contract a portion of the things sold had already been destroyed, if the purchaser did not know of the deficiency, or destruction, the provisions of the two preceding Articles shall be applied.

十六百五第
 條六

566.

實買の目的物の地上権又は賃借権の留置権又は質権の行使を妨げず

If, in cases where the thing sold is the subject of a right of superficies, or emphyteusis, or easement, or lien, or pledge, the purchaser was not aware of the fact, he can only rescind the contract if he is unable thereby to accomplish

its object. Otherwise he can only claim compensation for damage.

み於すりる約
かてこ買こを
爲ば主こ爲
す損かは能した
すこ害得契は
こ賠償其約さ
か償他のる目
得の解場の的
請場除合を
求合に達
のに爲限す

The provisions of the preceding clause shall extend to cases where an easement said to exist over an immoveable which is sold does not exist, and where a registered lease exists in respect of such immoveable.

合記さ稱る前
にしきせ不項
之た及し動の
をたひ地産規
準賃其役定は
用貸不權は
す借動かめ賣
めり存に存の
り付せり目
たるきり目的
るきりた
場登しとた

In cases coming under the two preceding clauses the contract must be rescinded, or a claim for compensation for damage instituted, within one year after the purchaser became aware of the facts.

こり事賠契約二
さ一實償約前
か年かのの項
要内り知請解
すにり求除場
之たは又合
をる買はに
爲主損於
すよか害て

567.

十六百五第
條七

Should the purchaser of an immoveable lose his right of ownership owing to the exercise of a preferential right, or a right of mortgage, which existed over it, he may rescind the contract.

除さ主は上賣
かき抵に買
爲は其當存の
す其所權の目
こ買有權した
か主權行るた
かはを使先る
得契失に取不
約ひ因特動
のたり權産
解る買又の

Should the purchaser preserve his right of ownership by the expenditure of a sum of money, he may claim repayment of this expenditure from the seller.

さをして買
還對たる其主
得をしる所か
請てさ有出
求其きは權捐
する出はか保
る捐賣保爲
この主存し

る賠たに有
償る損於執
をさ損害てれ
なこさなを
請きなも
求は受買場
す其け主合

If in either of the foregoing cases the purchaser has incurred loss, he may claim compensation.

十六百五第
條八

568.

るはて定は強
代契に競制
金の約依落競
ののり人競
得減解債賣
額除を者七合
を請為に條に
求し對の於
す又し規

In cases of forced sale by auction the successful bidder may, in accordance with the provisions of the seven preceding Articles, either rescind the contract with the debtor, or demand from him a reduction of the price.

は者代無前
一に金資項
得部對力な場
の配なる合
返して當るこ
還其なさきに
を代受けは於
請金のたは債
求全の競務
る部債人者
こ又權はか

If under the circumstances mentioned in the preceding clause the debtor is insolvent, the successful bidder may claim from the creditors amongst whom the price realized at the auction has been divided the return of the whole, or a part, as the case may be, of the price paid.

のほりを物前
請其て申又二
求過競出は項
を失實す權の
為者し又利場
すにたは債合
こ對は債欠に
さをさきは於
得てはは者知
損はは者知債
害競之り務
賠落なて者
償人知之か

If under the circumstances mentioned in the two preceding clauses the debtor knew of a defect in the thing, or right, which is in question, and did not mention it, or if the creditors knew of it when they demanded the sale by auction, the successful bidder may claim compensation for damage from the person in fault.

十六百五第
條九

569.

しをの債賣債
た擔資務主權
る保力者かの

If the seller of a claim guarantees the solvency of the debtor, he is presumed to have

guaranteed his solvency at the time the contract of sale was made.

すも擔けのさ
の保る當き
さし資時は
推た力に契
定るを於約

If the seller of a claim, the payment of which is not yet due, guarantees the future solvency of the debtor, he is presumed to have guaranteed his solvency at the time when payment is due.

のるきのの辨
さ資は資賣濟
推力辨力主期
定を濟をりに
す擔の擔債至
保期保務ら
した日し者さ
たにたのる
る於る將償
もげさ來權

570.

條十七百五第

If the thing which is sold contains a hidden defect, the provisions of Article 566 shall be applied. But cases of forced sale by auction do not come under this rule.

に制のきた賣
在競規はる買
ら實定第暇の
すのを五疵目
場準百あり物
合用六りたに
はす十たに
此但六る隱
限強條これ

571.

十七百五第
條一

The provisions of Article 533 shall apply to cases coming under Articles 563-66, inclusive, and under the preceding Article.

之ひ五六の第
を前百十規五
準條六三定百
用の十條は三
す場六乃第十
合條至五十三
に及第百條

572.

十七百五第
條二

Even if a seller expressly stipulates that he will not assume the responsibility as regards guarantee specified in the twelve preceding Articles, he cannot evade responsibility in respect of a fact which he knew and suppressed, or in respect

及りた買め賣
ひてるはた主
自告さるは
らけさる擔前
第ささ旨保十二
三り雖をの
者しも特實條
の事其約任に
爲買知しな定

するてたはめに of a right which he has created for or assigned
 ばる之に its 權に設 to a third person.
 こ其權に設 to a third person.
 こ實利讓定
 をなかに渡し
 得免付し又

十七百五第
 條三

573.

の期に渡賣 買 期に渡賣 買
 と限付きには 買 期に渡賣 買
 推かては付の 買 期に渡賣 買
 附も代き目 買 期に渡賣 買
 す亦金期的 買 期に渡賣 買
 た同の限物 買 期に渡賣 買
 る一の支あ 買 期に渡賣 買
 もの拂る引 買 期に渡賣 買

If a date is fixed for the delivery of a thing which is sold, it is presumed that the same date is fixed for the payment of the price.

十七百五第
 條四

574.

ふ所き金引賣 買 所き金引賣 買
 こにはな渡買 買 所き金引賣 買
 こ於其拂さの 買 所き金引賣 買
 をなて引ふ同 買 所き金引賣 買
 すの渡へ時的 買 所き金引賣 買
 拂場さ代の 買 所き金引賣 買

If the price of a thing sold is to be paid at the time the thing is delivered, it must be paid at the place of delivery.

十七百五第
 條五

575.

に其し物る未 未 其し物る未
 屬たか賣た 未 其し物る未
 す實る果買引 未 其し物る未
 はさ實の渡 未 其し物る未
 賣きを目さ 未 其し物る未
 主は生的い 未 其し物る未

If fruits are produced by a thing which has been sold, but has not yet been delivered, they belong to the seller.

息限き資金買 買 息限き資金買
 の期ふの主 買 息限き資金買
 拂到限但利は 買 息限き資金買
 ふ來あ代息引 買 息限き資金買
 こする金を渡 買 息限き資金買
 こさの拂の 買 息限き資金買
 をまよは支日 買 息限き資金買
 要ては拂義り 買 息限き資金買
 せは其に務り 買 息限き資金買
 す利期付を代 買 息限き資金買

The purchaser is bound to pay interest on the price from the date of the delivery of the thing bought. But if a date is fixed for the payment of the price, he is not required to pay interest until that date arrives.

576.

If an assertion of his right in regard to the subject of a contract of sale is made by some one, and the purchaser has consequently reason to apprehend the loss of the whole or a part of the right he has bought, he may, according to the extent of such apprehension, refuse to pay the whole, or a part, of the price. But cases where the seller furnishes suitable security do not come under this rule.

十七百五第
條六

保支除はり賣
拂の一て買
を拂部買の
供を限買の
し拒度を主
たむに失目的
るこ應ふ其に
こを虞買付
なき代あ受け
は得金ある權
此但のさる利
限主全さるな
に賣全部は權
在ら相又買利
當一は主張
すの部其部者
擔の危又あ

577.

If a preferential right, a right of pledge, or a right of mortgage is registered in respect of an immovable which has been bought, the purchaser may refuse to pay the price until the termination of the process of "clearing off"* the encumbrance. But the seller may call upon the purchaser to "clear off" the encumbrance without delay.

十七百五第
條七

すは代買質買
へき主のほ又
に支滯は受け
を對拂除抵
な請を拒手權
求してむの
ずる遅む纏
ること終を登
こを滯なくこに記
を滯除はる付
を爲除但ある
爲主賣まき
其は

578.

In cases coming under the two preceding Articles the seller may call upon the purchaser to deposit the price of the thing bought.

十七百五第
條八

を請代買に前
得金主於二
すのにて條
る供對賣の
こ託し主場
まをては合

* See Note to Article 378.

款三第

SUB-SECTION III.

戻買

RE-PURCHASE.

十七百五第
條九

579.

の表を及る不
利示爲ひ買動
息せす契戻産
ささこのの
ばりこの特賣
之しを費約主
なさ得用には
相は但を依賣
殺は常返り買
し不事還買契
た動者し主約
る産つてかこ
もの別其拂同
の果段賣ひ時
と實さ意のる爲
と看さ思解代し
做代思解代し
す金を除金た

The seller of an immoveable may, by means of a special agreement made at the time of concluding the contract of sale, re-pay to the purchaser the price paid and the expenses incurred by him in connection with the contract, and rescind it. When no expression of intention to the contrary is made by the parties, the fruits of the immoveable and interest on the price paid will be regarded as set off against each other.

條十八百五第

580.

十た長を年買
年るき得を戻
にさ期す超の
短きは問者ゆ期
縮はを之る間
す之定よこは
なめりこ十

The period within which re-purchase can be effected must not exceed ten years. If a longer period is fixed, it will be reduced to ten years.

な長後二期買
得る日間展
す之るをに
こ伸之さ定付
さ伸はめき

A period once fixed for re-purchase cannot subsequently be extended.

と之はさ期買
を五り間展
を爲年をに
す内しを定付
すこにきめき

When no period is fixed for re-purchase, one must be fixed within five years.

581.

十八百五第
條一

If a special agreement to re-purchase is registered at the same time as the contract of sale, the re-purchase has effect even against a third person.

力には登に賣
を對買記買買
生し戻し戻契
すてはたの約
も第る特と
其三き約同
效者きな時

The right of a hirer* which has been registered may be set up against the seller during one year only of the unexpired term of the contract of hiring and letting to hire. But this rule does not apply to cases where the contract was made in order to injure the seller.

は以かか利登
此得以は記
限但て其か
に貸買賣為
在借主主期し
ちかかに一た
す為害對年ス
しす抗間賃
たるすに借
る目る限人
的のり
さきこの
きな之權

582.

十八百五第
條二

Should a seller's creditor, who has by virtue of the provisions of Article 423 taken the former's place, wish to re-purchase, the buyer may pay the seller's debt out of the sum, so far as this will go, which remains over after the amount to be repaid by the seller to the buyer in the event of re-purchase has been subtracted from the present value of the immoveable as estimated by an appraiser appointed by a Court of law, returning to the seller also any further surplus that there may be, and may thus extinguish the right of re-purchase.

にまよては賣
返り選り主
還實實定ての
し主主し賃
てのつた戻權
買償返る者
戻務還繼為
權かす定さ第
を辨へ人四
消濟きの百
減し命評欲二
せしほにる三
む餘控從さ條
る剩除ひき規
さあし不は定
さるた動買規
かさる産主に
得きる理のは依
は額現裁り
之に時判賣
を違の所主
賣す價にに
主る額於代

* *Chin-shaku-nin*, one who hires land or buildings etc. under the provisions relating to hiring and letting to hire.

十八百五第
條三

583.

すかに賣代賣
為非用金主
すさを及は
こは提ひ期
こは供契間
を買す約内
得戻るのに

A seller cannot re-purchase unless he offers to the buyer, within the period fixed for re-purchase, the price paid and the expenses incurred by the latter in connection with the contract.

期所こ十用買
限はさ六か主
か實ん條出又
許主要のしは
與のす規たる
する請但定る
る求有とこ者
こ益從はきか
さ因費ひは不
かりに之賣動
得之付か主産
にて償はに
相は還第付
當裁す百き
の判る九費

If the buyer of an immovable, or the person who has acquired it from him, makes an outlay of money upon it, the seller is bound, in accordance with the provisions of Article 196, to repay the expenditure incurred. But in the case of beneficial expenditure a Court of law may, on the application of the seller, grant a reasonable time for this repayment.

十八百五第
條四

584.

競か受あ持不
買得り分動
は俱へたる産
之賣きる賣の
を主部さ却共
以に分きし有
て通又はた者
賣知は賣るの
主せ代主後一
にす金は其人
對して買不
抗て付主動
する爲きか
るし買受の
る戻け分特
こるをる約
こを分割を
得割す若は
す及こは競
ひは賣其

If, after one of the joint owners of an immovable has sold his portion subject to an agreement to re-purchase, the immovable in question is partitioned, or is sold by auction, the seller may exercise his right of re-purchase in respect of the portion of land, or the price of it, which has been received, or is to be received, by the buyer. The partition of an immovable, or its sale by auction, without notice of the fact being given to the seller, cannot be set up against the latter.

585.

十八百五第
條五

If in a case coming under the preceding Article the immoveable in question falls to the bid of the original buyer, the seller may re-purchase it upon repaying to the buyer the price for which he bought it at auction and the expenses mentioned in Article 583. Under these circumstances the seller acquires the right of ownership of the whole of the immoveable.

の場費代落前
所合用金人條
有にを及さの
權於拂ひ爲合
を取はて五たに
得實買八る於
す主戻さてて
ばを十三きは買
其爲三條實か
不すに主不
動産に主不
産の掲は動
全なけ競産
部此た實の
此るの競

If the immoveable in question has fallen to the bid of the original buyer in consequence of a demand for partition made by the other joint owners, the seller cannot exercise his right of re-purchase in respect only of the portion which he sold.

か持た買を他
爲分る主納の
すさか求共
こみき競し有
さは落た者
に付入るより
得主とる分
す買は爲因
戻其りり割

SECTION IV.

節四第

EXCHANGE.

換交

586.

十八百五第
條六

Exchange is effected by an agreement between the parties to transfer to one another rights over property other than the right of ownership of money.

なる轉非に交
生にすさ金換
す因るる錢は
りこ財の當
てさ産所事
其を權有者
效約を權か
力す移に互

るてたを利當
規はる移と事
定買さる共者
な買ときすの
準代この一
用金のこ方
すに金この
付に錢を所
す付し約有
す付し權

If one of the parties agrees to transfer to the other party together with other rights the right of ownership of money, the latter shall be subject to the provisions relating to the price of things sold.

節五第

SECTION V.

借貸費消

LOANS FOR CONSUMPTION.*

十八百五第
條七

587.

因金こしか消
錢とさ種費
り其他物を類
て其約を品
効のし以等
力物を及
を相返
受手還
取る方量
す取をの
るよ一
にりす同
方に

A loan for consumption is effected when one of the parties receives from the other party money, or any other thing, and agrees to return to him the same quantity of a thing of the same kind and quality.

十八百五第
條八

588.

因約ての消
りし消費
た費合貸
成る費に給
立借於借
さ貸にす
しきのの困
は目當ら
る消的務す
も費と務して
の貸さ為か
と借為か負
看はこ其金
做之を物者
すにを以他

If, in cases where a person is bound, otherwise than by a loan for consumption, to give to another money, or some other thing, the parties agree that the thing in question shall be treated as if it were the subject of a loan, it will be considered that a loan has thereby been effected.

* Mutuum.

589.

第十八百五第
條九

A promise of a loan for consumption loses its validity if one of the parties concerned is adjudged a bankrupt.

其け産者約消
效たののは費
力る宣一爾貸
な告方後借
きをさな
失きを
ふに受破事豫

590.

條十九百五第

If in the case of a loan for consumption with interest the thing loaned contains a hidden defect, the lender must replace the thing in question by one which has no defect. But the borrower is not precluded from claiming compensation for damage.

賠ふ疵りて利
償るなる物息
のこきるに附
の請さ物さ露
求ををされ消
を要以はた費
妨すて貸る貸
け但之主暇借
す損には疵り
害代暇あ於

In the case of a loan for consumption without interest the borrower may return the value of the thing which contains a defect. But if the lender knew of the defect, and failed to inform the borrower of the fact, the provisions of the preceding clause shall be applied.

定告其返借無
なけ暇還主利
準さ疵するは息
用りるを暇の
すし知り疵消
さりてある費
さなるを貸
は之得物借
前但のに
項借賃價於
の主主額て
規にをは

591.

十九百五第
條一

If no period for the return of the thing loaned is fixed by the parties concerned, the lender may fix a reasonable time, and on its expiration call upon the borrower to return it.

の期き期當
得催間はを事
告を貸定者
な定主めか
爲めはさ返
すて相り還
こ返當し
さ還のさ時

The borrower may return the thing loaned at any time.

かす還て何借
得こをも時主
さ爲返には

The borrower cannot without the consent of the lender allow a third person to use the thing the use of which he has borrowed, or to acquire profit therefrom.

借主は、借入物の使用を非主として、又はこれを譲り、第三者に貸し出さず、又はこれを譲り、第三者に貸し出すことを得ない。

If the borrower in using or acquiring profit from the thing in question violates the provisions of the two preceding clauses, the lender may rescind the contract.

借主が前二項の規定に違反して、借入物の使用を非主として、又はこれを譲り、第三者に貸し出すことを得ないときは、貸主は、この契約を解除するを得る。

595.

第十九百五
條五

The borrower bears the ordinary necessary expenditure incurred in connection with the thing borrowed.

借主は、借入物の通常必要の費用を負担する。

In regard to other expenditure the provisions of the second clause of Article 583 shall be applied.

此の他の費用については、第五百八十三條第二項の規定を適用する。

596.

第十九百五
條六

Loans for use shall be subject to the provisions of Article 551.

第十條第一項第五款の規定を適用する。

597.

第十九百五
條七

The borrower must return the thing borrowed at the time fixed by the contract.

借主は、借入物を契約に定められたる返却の期に、これを返却する義務を負ふ。

If the parties fix no time for the return of the thing in question, the borrower must return the thing when its use and the acquisition of profit therefrom in accordance with the object specified

借主は、借入物の返却の期を定めず、かつ、その使用及び利益の獲得の目的を以て借入したるときは、その目的に適合する時、これを返却する義務を負ふ。

SECTION VII.

節七第

HIRING AND LETTING TO HIRE.*

借貸賃

SUB-SECTION I.

款一第

GENERAL RULES.

則總

601.

條一百六第

A contract of hiring and letting to hire is effected when one of the parties agrees to enable the other party to use and acquire profit from a certain thing, and when the latter agrees to pay hire for it.

りか約取相賃
て拂し益手賃
其ふ相か方借
効こ手爲には
力さ方さ或常
ををわし物事
生約之むの者
すする使の
に其こ用一
に賃さ及方
因金をひか

602.

條二百六第

In cases where a person who is without legal capacity, or authority, to act makes a contract of hiring and letting to hire, the contract cannot exceed the following periods:—

るはに賃限處
こ左於賃を分
きこのて借有
な期はをせの能
得間其爲さる力
すを賃する又
超賃場者は
ゆ借合り權

- i. For contracts of hiring and letting to hire forest land for the purpose of planting trees, or felling timber..... 10 years.

賃さ又(二
借すは一
はる伐樹
十年探木
年の林を
の目裁
賃的植

* Locatio conductio rei.

五(二) 貸地他
年借の
は賃土其

ii. For contracts of hiring and letting to hire other land 5 years.

三(三) 賃物
年借の
は賃建

iii. For contracts of hiring and letting to hire buildings 3 years.

六(四) 賃産
月借の
は賃動

iv. For contracts of hiring and letting to hire moveables 6 months.

條三百六第

603.

新に物前る前
か付に土こ條
爲て付地さの
すはてにか期
こ一は付得間
さ今三て但は
を月今其之
要内月一期を
す其動内滿新
更産建了す

The periods named in the preceding Article may be renewed. But the renewal must be made in the case of land one year, in the case of buildings three months, and in the case of moveables one month before the expiration of the previous period.

條四百六第

604.

十(十) 以若年賃
年きて若年賃
には賃之を借
短其賃よ超の
縮期借りゆ存
すはを長る續
は爲きき期
之した期間
をたるは二

The period of duration of contracts of hiring and letting to hire must not exceed twenty years. Should a contract of hiring and letting to hire be made for a longer period, the term will be reduced to twenty years.

こ(十) 新之
年のさな項
をな時を更
超り得新
すゆり但期
る二更るは

The period named in the preceding clause may be renewed, but the period of such renewal must not exceed twenty years.

SUB-SECTION II.

款二第

VALIDITY OF HIRING AND LETTING TO HIRE.

力效の借賃賃

605.

條五百六第

If, a contract of hiring and letting to hire an immovable is registered, it is valid even against a person who subsequently acquires a right *in rem* over the immovable in question.

もしにき之不動
其た付はを動
効るき爾登産
力者物後記の
なをに權其し賃
生對を不た賃
すし取動る借
て得産さば

606.

條六百六第

The person letting to hire is bound to execute such repairs as are necessary for the use of the thing let to hire and the acquisition of profit therefrom.

ふかにの賃
爲必使賃
す要用人
義な及は賃
務ろひ賃
を修收賃
負繕益物

If the person letting to hire wishes to perform some act which is necessary for the preservation of the thing let to hire, the hirer cannot refuse permission.

む賃さるの賃
こ借欲行保賃
さ人す爲存人
かばるなにか
得之さ爲必賃
すをささ要賃
拒はん物

607.

條七百六第

If, in a case where the person letting to hire wishes to perform some act for the purpose of preservation which is contrary to the wishes of

るさ存に借賃
働人行反人賃
合さ爲しの人
に欲なて意か
於す爲保思賃

借能目かて
ははさるる之
すはさるるを
こと契約さる
をのさるる
得解は貸
除貸さる人

the hirer, the latter is thereby prevented from accomplishing the object of his contract, he may rescind it.

條八百六第

608.

請しるすき貸
求さるる必要
す直きは貸人
るちに賃賃か
こと其賃の賃
を賃人出賃借
選入しに物に
を對した屬付

If the hirer defrays in respect of the thing hired any necessary expenses for which the person letting to hire is liable, he may call upon the latter to make immediate repayment.

限賃賃百賃賃
を賃賃九賃賃
許賃賃賃賃賃
與賃賃賃賃賃
の賃賃賃賃賃
請賃賃賃賃賃
求賃賃賃賃賃
る賃賃賃賃賃
こと賃賃賃賃
を賃賃賃賃賃
之賃賃賃賃賃
に賃賃賃賃賃
但賃賃賃賃賃
定賃賃賃賃賃
時賃賃賃賃賃
に賃賃賃賃賃
相賃賃賃賃賃
裁賃賃賃賃賃
に賃賃賃賃賃
於賃賃賃賃賃
て賃賃賃賃賃
き賃賃賃賃賃
期賃賃賃賃賃
は賃賃賃賃賃

If the expenditure incurred by the hirer is of a beneficial character, the person letting to hire is bound, in accordance with the provisions of the second clause of Article 196, to repay it when the contract terminates. But a Court of law may, on the application of the person letting to hire, grant him a reasonable time for doing so.

條九百六第

609.

賃を益少人收
借請のきッ益
求額収不を
にすに益可目
付至を抗的
てるる力す
ばこまたる
此得たに因
限てさるる
に借さるる
在但賃さる
宅賃の賃土
地賃賃地
の賃賃賃
額賃賃賃
收賃賃賃
り賃賃賃

If, owing to *vis major*, a hirer of land whose object is to acquire profit from it derives less profit than the amount of his rent, he may claim the reduction of his rent to the amount of the profit he has derived. But the hiring and letting to hire of house-land does not come under this rule.

610.

條十百六第

If in a case coming under the preceding Article the hirer, owing to *vis major*, continues for two years, or more, to derive less profit from the land than the amount of his rent, he may rescind the contract.

前條の借入人、不可抗力に於て、其の賃借物の利益が、その賃借料より少く、二年以上継続して、その利益が賃借料より少くなるに至る時は、其の賃借物を解約し得る。

611.

條一十百六第

If through no fault on the part of the hirer a portion of the thing hired by him is destroyed, he may claim a reduction of his rent to an extent corresponding to the portion destroyed.

借入人が、其の賃借物の一部を、其の過失なくして滅失し、或は毀損したる時は、其の賃借料を、その滅失したる部分の割合に減額し得る。

If in a case coming under the preceding clause the hirer is unable by means of what is left to accomplish the object of his contract, he may rescind it.

前項の借入人が、其の賃借物の残存部分によつて、其の契約の目的を達成し得ないときは、其の賃借物を解約し得る。

612.

條二十百六第

A hirer may not without the consent of the person letting to hire assign his right to another person, or sub-let the thing hired by him.

借入人は、賃借人の同意なくして、其の賃借物の権利を他人に譲渡し、或は之を再賃借し得ない。

If a hirer, in contravention of the provisions of the preceding clause, allows a third person to use

借入人が、前項の規定に違反して、第三者に其の賃借物を使用せしむることを許すときは、

爲契き又貸
す約はさし借
こは賃しめ物
さを貸収たの
を解貸た益の
得なばと爲用

and acquire profit from the thing hired by him, the person letting to hire may rescind the contract.

條三十百六第

613.

る前賃貸賃賃
拂ふ入した人
こ此にたか適
さを以場對さ法
を得合してき
す賃於直接は
賃人て接轉賃
には借借物
對借義人な
抗賃務はを
すの賃轉

If a hirer lawfully sub-lets the thing hired by him to another person, the latter becomes directly responsible to the person letting to hire. Under these circumstances the payment in advance of the hire cannot be set up against the person letting to hire.

する權人賃前
こ利に賃項
さを對人規
を行しつ定
妨使し賃
けす其借は

The person letting to hire is not precluded by the provisions of the preceding clause from exercising his rights against the original hirer.

條四十百六第

614.

なこのに借
ものこ付て賃
之をなばは動
に付ては毎産
を付ては月物
を拂ふは但年
こ其收未に建
さを節季に物
要後節之他及
す後節の宅
滯運あ拂土地
るふ地に

Hire must be paid at the end of each month in the case of moveables, buildings, and house-land, and, in the case of other land, at the end of each year. But in cases where there is a harvest season it must be paid without delay after the close of the season.

條五十百六第

615.

あ主付は繕賃
る張き賃借
さる權賃を
さる利借物
は者なに又修

Should the thing hired require repairs, or should some person assert his right in respect of it, the hirer must without delay inform the person

letting to hire of the fact. But cases where the person letting to hire is in a position to know the facts do not come under this rule.

に知實す之賃
在れるを賃人
らすこま賃は
すき既を入通
はに要に滞な
此之ず通なく
限を但知く

616.

條六十百六第

The provisions of the first clause of Article 594, of the first clause of Article 597, and of Article 598, extend to contracts of hiring and letting to hire.

借條ひ十第第
の規五條項百
を定は九第九
用賃十項百四
す貸八及九條

SUB-SECTION III.

款三第

TERMINATION OF HIRING AND LETTING TO HIRE.

了終の借賃賃

617.

條七十百六第

If the parties fix no term for a contract of hiring and letting to hire, either party may at any time give notice to end the contract. Under these circumstances contracts of hiring and letting to hire terminate when the following periods have elapsed from the time at which such notice is given :—

りの場もり當
て後合解し者
終左に約さか
了の於のきか
す期申は賃
間に入各賃
を賃を當借
経貸為事の
過借す者期
したはこは間
た解さ何を
る約を時定
に申得にめ
因入此てさ

i. In the case of land 1 year.

年て地二
はに一
一村土

If security has been furnished by one of the parties in respect of the previous contract, it is extinguished by the expiration of the period. But this rule does not apply to *Shiki-kin*.*

前貸借に付き當
事者擔保し
たるときは其
期間満了後
は此限に在ら
ず

620.

條十二百六第

The rescission of a contract of hiring and letting to hire has no retrospective effect. But if one of the parties has been guilty of negligence, the other party is not precluded from claiming compensation for damage.

當向に貸借を
解除するに於
ては其解除の
効力は溯及し
ないが、一方
の当事者が過
失を以て損害
を與へたるに
對し、他方は
賠償を請求す
るを得る。

621.

十二百六第
條一

In cases where a hirer is adjudged a bankrupt, even though the contract has been made for a fixed period, the person letting to hire, or the receiver, may, in accordance with the provisions of Article 617, give notice to end it. Under these circumstances neither party can claim from the other compensation for damage.

借入人の破産
宣告後、貸借
契約の期間が
満了するに至
らざるに於て
も、貸借人若
しくは受託人
は、破産管理人
の請求に對し
て、該契約を
解除し、其の
損害賠償を請
求するを得る
こととなる。

* *Shiki kin* is money deposited by the hirer of land, or buildings, as security for the payment of his rent. It may be appropriated by the landlord in the event of the non-payment of the rent, but otherwise it is returned to the hirer on the termination of the contract.

十二百六第
條二

622.

す之質の第六
を賃規百
準借定百
用には條

The provisions of Article 600 extend to hiring and letting to hire.

節八第

SECCIÓN VIII.

傭雇

THE HIRE OF LABOUR AND SERVICES.*

十二百六第
條三

623.

てる方相願
其かす手備
効こ之る方は
力かんにこに常
を約其こ對事
生す報かし者
する酬約ての
にかし勞一
因與相務方
りふ手にか

A contract for the hire of labour and services is effected when one of the parties agrees to work for the other party, and the latter agrees to give him remuneration.

十二百六第
條四

624.

さん非終し勞
を請さりた務
得求れたる者
すはる勞は
る報後務其
こ酬にを約

A workman cannot claim his remuneration until the work he contracted to do is finished.

を請し其め期
得た期た間
する間るを
る後の額以
こ之經酬て
さを過は定

Remuneration for the payment of which a period is fixed can be claimed after the period has expired.

* *Locatio conductio operis faciendi.*

625.

第二百六十六條五

An employer cannot without the consent of the workman transfer his right to a third person.

かに權に者使
得讓利非の用
す渡かま承者
す第れ諾は
こ三はあ勞
と者其る務

A workman cannot without the consent of his employer cause a third person to do the work in question in place of himself.

得服已は承勞
すせに第諾務
むり者るげ
るてかに使用
と務てさ者
をに自れの

If a workman, in contravention of the provisions of the preceding clause, causes a third person to do the work in question in place of himself, the employer may rescind the contract.

爲者めし定勞
すはたてに務
こ契る勞反者
さ約さ務しか
かのきに第前
得解は服三項
除使せ者の
な用しを規

626.

第二百六十六條六

If the period for which a contract for the hire of labour and services is made exceeds five years, or if it is to last for the life-time of one of the parties, or of a third person, the contract may be rescinded by either party at any time after the expiration of five years. In the case of commercial and industrial apprentices this period is fixed at ten years.

習を經す者雇
者爲通への備
のすしき一の
願こたさ方期
んさるき若間
にを後はくか
付得何當は五
て但時事第年
は此に者三を
之期ての者經
な間も一の過
十年は契方終し
年商約は身又
と工の五間は
す業解年續當
見除を續事

If it is desired to rescind a contract in accordance with the provisions of the preceding clause, notice must be given three months in advance.

す告はさて前
を三人契項
爲个月と約の規
す前す解定
とにる除に依
を其とを依
要讓き爲り

629.

第二百六十六條九

If after the expiration of the term of the contract the workman continues to work, and no objection is raised by the employer, it will be considered that a fresh contract with the same conditions has been concluded. But either party may, in accordance with the provisions of Article 627, give notice to end the contract.

に定條て務雇
依す件異に備
り但を議の
て各以を眼
解當更する
約事へ述る
の者さる場
申は雇さ合
入は備にの
を第六さ於
爲百二き後
す二十爲は
こ七たる使
七條も用者
の同者引
規さ一續
定推のき
知其
り勞

If security has been furnished in respect of the previous contract, it is extinguished by the expiration of the term. But this rule does not apply to money deposited as a personal guarantee.

に但満きか前
在身は其擲雇
在元に保備
ら元其擔に
す保因擔を
證り保供付
はば期た當
此減間る事
限すのさ者

630.

第十三百六第六

The provisions of Article 620 extend to the hire of labour and services.

準にはの二第
用之雇規十六
すを備定條百

631.

第十三百六第六條一

In cases where an employer is adjudged a bankrupt, even if a period has been fixed for the duration of the contract, the workman, or the receiver, may, in accordance with the provisions of Article 627, give notice to end the contract. Under these circumstances neither party can claim

り六務のけ使
て百者定たる用
解二又める者
約十はあさ者
の七破さ破
申條産さ破
入の管さ雇
を規財と雇
爲定人難に
すにはも期
こ依第勞間受

る害因手てを
この方りは各
賠償てに對當
を償生しし事
請求したる者
す損たる約は
す損に相於

compensation for damage arising out of such action.

節九第

SECTION IX.

頁請

CONTRACTS FOR THE EXECUTION OF SPECIFIED WORK.*

十三百六第
條二

632.

其るにし仕請
效この對相手
力とを方手は
なをて方完
生約之が成事
する其仕者
に報任るの
に酬事この
因なと方
り興結を
てふ果約或

A contract for the execution of specified work takes effect when one of the parties agrees to execute certain work, and the other party agrees to remunerate him for the result.

十三百六第
條三

633.

規六渡引報
定るこを
二こを要は
十を要さ
四せを同
條さるを
すすに
第但之
一の目
項は物
の第引ふ

The remuneration must be paid when the thing which is the subject of the work is delivered. But if the thing in question does not require to be delivered, the provisions of the first clause of Article 624 shall be applied.

* *Locatio conductio operis faciendi.* The Japanese text of this heading, and of the first line of Article 632, would be more literally rendered by the one word "contracting."

634.

十三百六第
條四

If there is a defect in the thing which is the subject of the work executed, the person ordering the work may fix a reasonable time, and call upon the contractor to make good the defect within that time. But cases where the defect is not serious, and its repair would entail excessive expense, do not come under this rule.

るにさ定文仕
に於なめ者事
き得てはの
は其但請目
此修暇員
限補疵人
にっの物
にに
在過重修對暇
ら分要補し疵
すのなを相ある
費ら請當るさ
用さ求るさ
をるす期は
を場る限は
す合こを注

The person ordering the work may in place of, or in addition to, calling upon the contractor to make good a defect claim compensation for damage. Under these circumstances the provisions of Article 533 shall be applied.

定はこ損代注
な第さ害へ文
準五を賠又は
用す三此の其暇
十場請修疵
三合求補の
條にをさ修
の於爲共補
規てすに

635.

十三百六第
條五

If there is a defect in the thing which is the subject of the work executed, and the person ordering the work is thereby unable to accomplish the object of his contract, he may rescind it. But this rule does not apply to buildings, or to other works connected with land.

物と注なつ仕
に文達爲事
付得者すめ
て但はるに目
は建築こ契的
此物約さ約物
限其の能をに
に他解は爲暇
在土除さし疵
ら地なるたあ
すの爲さるり
工すき目て
作こは的之

636.

十三百六第
條六

The provisions of the two preceding Articles shall not be applied in cases where the defect in the thing which is the subject of the work is the result of the nature of the materials supplied

者のり暇仕前
の性供疵事二
興質しっの條
へ又た注目
たる文規
注材者物定
指文料よの

If the work executed is destroyed or injured in consequence of the defect mentioned in the preceding clause, the person ordering the work must exercise the rights defined in Article 634 within one year after the destruction, or injury, has taken place.

行第六百三十四の條に於ては、工事は、毀滅し、又は、損傷を受け、或は、消失し、或は、前項の毀滅、損傷、消失、若しくは毀滅、損傷、消失の結果、利益を失ふに至るに、又は、因

639.

第十三百六第
條九

The periods mentioned in Article 637, and in the first clause of the preceding Article, may, within the limits of the ordinary terms of prescription, be extended by contract between the parties.

こゝに於ては、前項の期間、第六百三十四條の第一項の普通の特約の條に於て、其の期限を延長し得ることを許す。

640.

條十四百六第

Even if a contractor has made a special agreement releasing him from the responsibility of guarantee mentioned in Articles 634 and 635, he cannot evade responsibility in respect of facts which he has known and failed to mention.

第六百三十四條及び第六百三十五條の保証の責任を免除するに關する特別の約定があつても、その事實を知らずして、或は、知らざりながら、その事實を述べないことには、責任を免れ得ない。

641.

十四百六第
條一

The person ordering the work may at any time before its completion by the contractor pay compensation for damage, and rescind the contract.

工事が完了する前に、注文者は、損害賠償を拂ふこと、或は、契約を解除し得る。

第十四百六第
條二

642.

財の買除は注
團世人か請文
の購は爲買者
配酬其す人か
當中既こ又破
ににこは産
加爲を破の
入含し得産
するさ此管
るさる場財を
こさ仕合人受
を事にはけ
得用の於た
付酬はのさ
き及請解き

If the person ordering the work is adjudged a bankrupt, the contractor, or the receiver, may rescind the contract. Under these circumstances the contractor may participate in the distribution of the assets in respect of the remuneration due to him for the work already executed, and in respect of expenses not included in such remuneration.

このり方は前
を陪てに各項
た眞生對當の
得かしし事場
す請た解者合
求る約はに
す損に相於
る害因手て

Under these circumstances neither party can claim compensation for damage sustained by the dissolution of the contract.

節十第

SECTION X.

任委

AGENCY.

十四百六第
條三

643.

てを委す方委
其承託こか任
效諾しこ法は
力す相を律當
なる手相行事
生に方手爲者
す因か方爲の
り之に爲一

Agency takes effect when one of the parties deposes to the other party the performance of a legal act, and the latter accepts the duty.

644.

十四百六第
條四

An agent is bound to conduct the business entrusted to him in accordance with the intention of the agency, and to exercise the care of a good manager.

務務意な本受
ををなる旨任
負處以管に者
ふ理て理従は
す委者ひ委
る任の善任
義事注良の

645.

十四百六第
條五

An agent must at any time when his principal calls upon him to do so report upon the conduct of the business entrusted to him, and on the termination of the agency he must without delay furnish a detailed report.

告は報委あ受
す淵告任る任
滞ノ事さ者
なく又務きは
こく委處は委
か其任理何任
ヲ願終の時者
す末了狀の時
かの況て精
報後なも求

646.

十四百六第
條六

An agent must hand over to his principal any money or other thing which he receives in connection with his conduct of the business entrusted to him. The same rule applies to fruits which are collected.

たこ物取處受
さかり理任者
果か委たす者
實要任るるは
亦す者命に委
同其に錢當任
し收引其り事
取渡他て務
しすの受な

An agent must transfer to his principal any rights which he acquires in his own name but on behalf of his principal.

る委た名の受
こ任るを爲任
こ者權以め者
かに利てにか
要移は取自委
す轉之得已任
すなしの者

647.

十四百六第
條七

If an agent spends for his own benefit money which he ought to have handed over to his principal, or money which he ought to have

ゆの又す任受
へ爲はへ者任
きめ其きに者
命に利命引か
類用益類渡委

はほなししを
其損拂したる自
賠償ふるさ己
のありこき以の爲
責たる後其に消
に任さすの利消費
すき尚息費

employed for the latter's benefit, he must pay interest on such money from the date on which it was spent; if damage also has been sustained, he is bound to give compensation.

十四百六第
條八

648.

得求しはあ受
するす委ある任
る報任に者
こ酬者非は
さを請にさ特
なを對れ約

An agent cannot in the absence of a special agreement claim remuneration from his principal.

のさ但れに受
規は期於任者
定は間之ては
な第六を以請委
準百六を求任
用す二報す履
十酬する行受
四なこののく
條定めか後へ
第二た得非場
項るすさ合

In cases where an agent is entitled to receive remuneration he cannot claim it until after the conclusion of the business entrusted to him. But if a period is fixed for the payment of remuneration, the provisions of the second clause of Article 624 shall be applied.

なるきのつ委
請履は半ら任
求行の受途さ
するの任に受
る割者於事者
こ合はて由の
をに其終に責
得應既了因に
してしにり其
て爲した其歸
報しる履す
酬たさ行へ

If for reasons for which the agent is not responsible the agency terminates before the conclusion of the business entrusted to him, he may claim remuneration proportionate to the amount of the business he has actually performed.

十四百六第
條九

649.

す因はする委
こり受るに任
さを任さ付事
を其者さき務
を要前はき費
す拂請委用處
を求任を理
爲に者要す

If the conduct of the business entrusted to an agent requires the expenditure of money, this must, on his demand, be paid in advance by the principal.

は事已き任
此由するは
限ありこ其
にりたを解
らるるを除
すきさ要を
きさるす賠
すきさる償

party, he must give compensation. But cases where a contract is rescinded for unavoidable reasons do not come under this rule.

十五百六第
條二

652.

用に定十第
す之は條六
な委の百二
準任規二

The provisions of Article 620 extend to agency.

十五百六第
條三

653.

のす破受委
き宣産任任
亦告任者
しをにに
受者因の委
け受かり死任
た禁り亡者
る治終又又
産了はは

Agency terminates by the death, or bankruptcy, of the agent or principal. It also ceases if an agent is interdicted by a judicial order from managing his property.

十五百六第
條四

654.

要理又は情委
なるは法ある任
處すは法定終
分この法代了
をここ定代さ
為九理人き
す得るは場
こ至るに合
を至るに於
要任者其
す事任者其
て相急
要務相繼迫
すを續人の
必處人又事

Should a pressing emergency arise upon the termination of an agency, the agent, his legal successors, or legal representatives must take whatever steps are necessary until such time as the principal, his legal successors, or legal representatives are able to assume the conduct of the business entrusted to the agent.

十五百六第
條五

655.

るに委由了委
と出任はの任
受者其事終

Whether the reasons for terminating an agency proceed from the side of the principal, or from

that of the agent, they cannot be set up against the other party until after he was informed or knew of them.

又す任
は之者
に相出
て其手
相に方
を非手
得方す
すに之
にを通
對は知
抗之り
しは

656.

The provisions of this Section extend to the deputing of business which has not the character of a legal act.

第五百六
條六

之務には本
法の非
法節
準委さ
用託る
すに事
爲定

SECTION XI.

節一十第

DEPOSIT.

託寄

657.

第五百六
條七

Deposit is effected when one of the two parties agrees to keep some thing for the other party, and receives the thing in question.

方取をに方寄
なる約保つ託
生にし管相は
す因てを手當
り或爲方事
て物すの者
其をこ爲の
效受さめ一

658.

第五百六
條八

A depositary cannot without the consent of the depositor make use of the thing deposited, or cause a third person to keep it.

こ之又は承
をは受諾寄
を保第寄者
得管三物は
すせをに寄
しを使非託
むし用さ者
るてしれの

規ひにむて受
定第於る寄
を百てこ寄
準七はま物
用條第をの
す百な保
二五得
項條者
の場管
の及せ
合し

In cases where a depositary can cause a third person to keep the thing deposited the provisions of Article 105 and the second clause of Article 107 shall be applied.

十五百六第
條九

659.

すま己物受無
責同ののけ報
任一財保た嗣
す注にに者て
意於付は寄
なけき受託
爲る自寄な

A gratuitous depositary is bound to exercise in respect of the thing deposited the same care as he exercises in regard to his own property.

條十六百六第

660.

者はなしす寄
に運爲てる託
過滞し訴第物
知なるを三に
する提者付
る其さし起き
こ事さし受權
ま實は又寄利
な受は者な
要寄寄差に主
す託者押對張

If a third person who asserts a right in respect of the thing deposited brings an action against him, or attaches the thing in question, the depositary must without delay inform the depositor of the fact.

十六百六第
條一

661.

さしして寄
こ生託
はき其こ者
此又性をたは
限は質要る寄
に受若す損託
在寄但害物
ら者は寄の
すか暇託受性
之疵者質
な知過に
りら失賠暇
たさく償疵
るりくすよ

A depositor must compensate the depositary for any damage arising out of the nature of, or a defect in, the thing deposited. But this rule does not apply to cases where the depositor through no fault on his part was not aware, or where the depositary was aware, of the nature of the thing, or of the defect.

662.

十六百六第
條二

Even in cases where a date for the return of the thing deposited has been fixed by the parties the depositor may at any time demand its return.

返る還當
を還さの事
得な何き時
請時か
求に雖寄
すても定託
るも寄め物
こ其託た返

663.

十六百六第
條三

If no date for the return of the thing deposited has been fixed by the parties, the depositary may return it at any time.

すて受め返當
も寄さ還事
さ其者の
か返はし時
得還何さ期
か時きを託
爲には定物

If a date is fixed for the return of the thing deposited, the depositary cannot return it, except for unavoidable reasons, before that date arrives.

かは事已返
爲其由むさ還
す期あこき時
こ限るさは期
さ前にか受の
なに非得寄定
得返さ者め
ず還ささあ

664.

十六百六第
條四

The thing deposited must be returned at the place where it was to be kept. But if the depositary has for just reasons removed the thing in question elsewhere, he may return it at the place where it is.

返きにかへ寄
還は因要き託
ず其りす場物
す現て但所の
こ在受に返
さの物寄於還
か場を者ては
得所禮か其
に置正か保
於し當爲管
てたるすか
之る事こ爲
なと由さす

十六百六第
條五

665.

用定第及至第六
すは一ひ第六百
寄項第六百
託第六百四
に二百四十六
之項五十九
をの十九條
準規條條乃

Deposit is subject to the provisions of Articles 646-9, inclusive, and to the provisions of the first and second clauses of Article 650.

十六百六第
條六

666.

還し但消費受
なき契費する寄
請き約貸る者
求はに借こ
す寄返にさ
る託還關を約
すのす得に
こは時る依
さ何期規場
な時を定に寄
得に定かに寄
てめ準於物
もさ用てか
返りすは消

In cases where a depositor is by contract entitled to consume the thing deposited the provisions relating to loans shall be applied. But if no date for the return of the thing in question is fixed by the contract, the depositor may at any time demand its return.

節第二十第

SECTION XII.

合組

ASSOCIATION.

十六百六第
條七

667.

効すなし事組
力る營て者合
なむ共契
生因こ同出約
すりさの資は
すてを事各
其約業為當

A contract of association is effected when the several parties concerned agree to contribute money, or other things, and engage in a joint undertaking.

Labour and services may be made the subject of contribution.*

出勞務以爲目的
其なは
得こ

668.

第十六百六
條八

The contributions furnished by the members, and all other property of the association, belong in common to all its members.

各組員其の
出資の
組合員
共有の
財産に
屬す

669.

第十六百六
條九

If, in cases where the contribution from a member takes the form of money, the member in question neglects to make the required payment, he must in addition to paying interest give compensation for damage.

金銭の
貸付に
關し
其の
利息を
拂ふ
に
當り
其の
損害を
賠償
す

670.

第十六百七
條

The conduct of the business of an association shall be determined by a majority of the members.

組合の
業務を
執行す
るに
關し
其の
多數の
組合員
の
決議を
要す

If by the contract of association the conduct of business is entrusted to several persons, it shall be determined by a majority of them.

組合員
の
業務を
執行す
るに
關し
其の
多數の
組合員
の
決議を
要す

Notwithstanding the provisions of the two preceding clauses, the ordinary business of an association may be transacted independently by any

組合員
の
業務を
執行す
るに
關し
其の
多數の
組合員
の
決議を
要す

* *Shusshi*, a term which includes the contribution of anything which has value.

た業務を専ら執行する者他の組合員に在らざることを得ずは其 member, or by any one of the persons to whom the conduct of the business of the association is entrusted, provided always that no objection is raised by the other members of the association, or by the other persons to whom the conduct of the business of the association is entrusted.

十七百六第
條一

671.

用十條は行組
す條乃第すの
の至六組合
規第百組業
定六四合務
百十員を
準五四に執

The members of the association who conduct its business shall be subject to the provisions of Articles 644-50, inclusive.

十七百六第
條二

672.

解はは委人組
任辭正任の合
せ任當し組契
らなをたる合
す由さ員を以
こさるは業て
なをに其の人
し得非組執又
すさ合行は
又れ員を數

If by the contract of association one or several members are entrusted with the conduct of the business of the association, such member, or members, cannot, except for just reason, resign or be removed from office.

すめ組爲由正
る合すり當
この員にての
さは解事の
を一他任由
要致のなに

For removal from office for just reasons the agreement of all the other members of the association is necessary.

十七百六第
條三

673.

權執務員各
利すなのは組
なる行業組合

Each member, even if he has not the right to conduct its business, may enquire into the condition

of the business and of the property of the association

有せざることを其の業務及財産の調査を得ることを得ず

674.

第十七百六第 條四

In cases where the respective shares in profit and loss of the parties concerned are not fixed these shares shall be determined according to the value of the contribution furnished by each member.

當事者、損益分配の割合を定め、其の定むる各組の利益及び損失の割合を、各組の貢献の額に照して決定す

If the determination of the respective shares is limited only to profit, or only to loss, such shares shall be presumed to extend to both.

利益又は損失の分配にのみ限定するときは、利益及び損失の両方に及ぶと推定す

675.

第十七百六第 條五

If the creditor of an association did not know at the time the debt was contracted the respective shares in loss of the members of the association, he may exercise his right against each member on the basis of equal division.

組合の債権者、其の債権の発生時、各組の損失の割合を知らずして、債務を履行したるときは、各組の損失を均等に分配する権利を行使し得る

676.

第十七百六第 條六

If a member of an association disposes of his portion of the property of the association, he cannot set up this fact against the association, or against a third person who has business transactions with it.

組合員の持分を処分するときは、其の組合及び第三者との取引を以て、組合の財産に對して引当りとする権利を主張し得ず

- i. Death. 亡死(一)
- ii. Bankruptcy. 産破(二)
- iii. When a person is interdicted from managing his property. 産治禁(三)
- iv. Expulsion. 名除(四)

680.

條十八百六第

The expulsion of a member may take place by agreement of all the other members, but only for just reasons. Unless the member in question is notified of his expulsion, it cannot be set up against him.

組知除致る組
合する名を場合員
員にたてにの除
に非ざる之限り
對抗するれば合
するは之を爲す
こを其に之に
さを以て其旨
得ず其通但一
あ

681.

十八百六第
條一

The settlement of accounts between a member who has withdrawn and the other members of the association must be based on the actual condition of the property of the association at the time of his withdrawal.

さ況於計他脱
にけ算の退
要從るは組し
すひ組脱合
之を財退員
爲すの當さ
こを爲すの組
こに合員
の時にさ

The share of the property of an association which belongs to a member who withdraws may, whatever the nature of his contribution may have been, be paid to him in money.

さて問資員脱
之はのの退
得をす種持し
拂金類分た
戻錢如はる
すを何其組
こを以を出合

In the case of business transactions which are not concluded at the time of the member's withdrawal the settlement of accounts may be made after they are concluded.

を其るて脱
爲結事未退
す了了項の
こ後に結當
さを付了時
を計てせに
得算はさ於

十八百六第
條二

682.

にはる組
因其事合
り成業は
て功の其
解の成目
散不功的
す能又た

An association is dissolved when the under-
taking for the execution of which it was formed
is accomplished, or when its accomplishment is
impossible.

十八百六第
條三

683.

こ散員とささ
なほきるむ
を請組は事こ
得求各由と
すの組あを
る解合る得

If unavoidable reasons occur, each member of
an association may demand its dissolution.

十八百六第
條四

684.

を契定十第
準約は條六
用に組の百
す之合規二

The provisions of Article 620 extend to con-
tracts of association.

十八百六第
條五

685.

をたて總る組
爲る又組さ合
す者は合さか
に其員は解
於選共清散
て任同算し
之しにはた

When an association is dissolved, its affairs
may be wound up by the whole body of members,
or by persons selected by them for that purpose.

決以過組選清
すて半合任算
之數員は人
をの總の

The selection of liquidators shall be determined
by a majority of the members.

十八百六第
條六

686.

準の百き人清
用規七はあ算
す定十第る人
を條六と數

In cases where there are several liquidators
the provisions of Article 670 shall be applied.

687.

十八百六第
條七

In cases where by the contract of association, liquidators are chosen from among the members the provisions of Article 672 shall be applied.

を七る算組組
準十こ人合
用二きを員契
す條は選中約
の第任よを
規上しり以
定六しり以
百た清て

688.

十八百六第
條八

Liquidators shall as regards their duties and authority be subject to the provisions of Article 78.

す規七に務清
定十付及算
を八てひ人
準條は權
用の第限職

Any assets which remain over shall be divided according to the amount of each member's contribution.

をに出各環
分應資組餘
割し合財
すの員産
之額のは

SECTION XIII.

節三十第

LIFE-ANNUITIES.

金期定身終

689.

十八百六第
條九

A contract for a life-annuity is effected when one of the parties agrees to give to the other party, or to a third person, at fixed periods, money or some other thing during the life-time of himself, the other party, or the third person in question.

す第金者一終
る三錢の方身
に者其死つ定期
因に他に亡自
り給のに己金
付物至相契
すなるま手方
其すを相ては
効するま又當
力手方定は事
をこさ方又定
を生を及期第
す約はに三

條十九百六第

690.

すを以日期終
計て割金身
算之をば定

Life-annuities shall be calculated by days.

十九百六第
條一

691.

を期還義合定
債金を務に期
務の請を於命
者に求履て債
により行其務
返するべき者
元さるべき期
本のさるべき
の利息は付の
を既に相元本
を控に手方元
除し取りは受
たり元はは受
たるた本其た
るの他のる
額定返の場

If in cases where an annuity-debtor has received the principal he neglects to pay the money due at fixed periods, or fails to discharge any other duties, the other party may claim the return of the principal. But the money already paid at fixed periods must be returned to the annuity-debtor, less the amount of interest due on the principal.

けのは前
す請損項
求害の
か賠償
妨償定

The provisions of the preceding clause do not preclude the institution of a claim for compensation for damage.

十九百六第
條二

692.

用に條規十第
す之の定三五
か場は條百
準合前の三

The provisions of Article 533 shall extend to the cases coming under the preceding Article.

十九百六第
條三

693.

るり者しに死
こ相又は歸亡
こ當はるす
を其さへき
宣期相は事
告間續は事
す借入裁由
る權の判に
ここの請所
こ存求はり
を續に借者
得す因生責

Should death occur for a reason for which the annuity-debtor is responsible, a Court of law may, on the application of the creditor, or of his successors, order the continuance of the claim for a reasonable period.

The provisions of the preceding clause do not preclude the exercise of the rights established by Article 691.

けのめ十は前
す行た一第項
使る條六の
を權に百規
妨利定九定

694.

十九百六第
條四

The provisions of this section shall extend to life-annuities which are bequeathed.

を遺定定本
半贈期は節
用に金終の
す之の身規

SECTION XIV.

節四十第

AMICABLE ARRANGEMENT.

解和

695.

十九百六第
條五

An amicable arrangement is effected when the parties agree to settle the dispute between them by making mutual concessions.

生にも間に和
す因るに議解
り存歩は
てさすを常
其なる爲事
教約争し者
力すなてか
なる止其互

696.

十九百六第
條六

If by an amicable arrangement it is settled that one of the parties possesses, or that the other party does not possess, the right which was the subject of the dispute, and conclusive proof is afterwards produced that this right did not previously belong to the party first mentioned, or

にもは有り當
於の相すて事
てさ手る争者
其認方も一の
者めかの目一
から之と的方
従れを認たか
來た有め和
此るせら權解
權場され利に
利合る又を依

も移は證相を
の轉和出手有
し解たる方せ
す又さるかさ
は因るさ之り
消りなき有
滅しては確
し其せし證
た者し又
るに利確は

that it belonged to the other party, it will be regarded as having, by the arrangement in question, been, either transferred to the first mentioned party, or extinguished.

.....

第三章

CHAPTER III.

理管務事

MANAGEMENT OF BUSINESS (*Jimu Kwanri*)*

十九百六第
條七

697.

爲き最者に義
す方もは事務
こ法本其務なく
に依人事の管
を依の務管して
要り利益の理他
すて益性を他
其に賃始人の
管適にめ爲
理す従た爲
なへひるめ

A person who assumes the management of another person's affairs without being bound to do so, must manage them in accordance with their nature, and in the manner best adapted to secure the interests of the principal.

こに得之を管
さ従へきを理
を要りき推者
す管理さ知か
す理する本人
を其さの
爲意こき意
す思は思

If the manager knows, or is able to infer, the wishes of the principal, he must manage the affairs in accordance with them.

* Management which is voluntarily assumed.

698.

If a manager in order to protect the principal from imminent peril to his person, honour, or property, assumes the management of his affairs, he is not bound to give compensation for damage resulting from his act, unless he is guilty of bad faith, or gross negligence.

十九百六第
條八

管理
者
が
本人
の
身體
名譽
又は
財産
に
對
する
急
迫
の
危
害
を
免
れ
し
む
る
爲
め
に
其
事務
の
管理
を
爲
した
る
に
非
ざ
れば
之
に
因
り
て
生
じ
たる
損害
を
賠償
する
責
に
任
ぜ
ず

699.

A manager must without delay inform the principal of his having assumed the management of his affairs, provided always that the latter is not already aware of it.

十九百六第
條九

管理
者
は
其
管理
を
始
め
たる
時
に
本人
に
通知
する
こと
を
要
す
但
本人
が
既に
之
を
知
れる
に
在
ら
ず

700.

A manager must continue his management until such time as the principal, his successors, or his legal representatives, are in a position to relieve him of it. But this rule does not apply to cases where it is clear that such continued management is contrary to the principal's wishes, or opposed to his interests.

條百七第

管理
者
は
本人
の
繼續
する
こと
を
得
る
に
至
ら
ず
其
管理
の
權
を
本人
に
還
す
る
ま
で
之
を
繼續
す
る
こと
を
得
る
に
至
ら
ず
明
か
なる
こと
に
依
り
本人
の
不
利
なる
こと
を
得
る
に
至
ら
ず

條一百七第

701.

定四條第
之は十乃六
な事務第
準務條第
用管の六
す理十
規百五

The provisions of Articles 645-7, inclusive, extend to management of business.

條二百七第

702.

違本なめ
得出人に
ず請有者
求對た
するる
こ其さ
と價は用
爲

If a manager incurs expenditure for the benefit of the principal, he may claim re-payment from him.

規五債爲
定十務め
なさな
準第はに
用二第百
す項六有
の百たる
の

In cases where a manager contracts a debt for the benefit of the principal the provisions of the second clause of Article 650 shall be applied.

のるはし
規本て
限本人
定に管
を理
適用於者
すの現を
の利に本
分益た人
前受る
項くま
き反

In cases where a manager assumes the management of another person's affairs contrary to the latter's wishes, the application of the provisions of the two preceding clauses shall be limited by the extent of the benefit which is actually being derived by the principal.

CHAPTER IV.

章四第

IMPROPER PROFITS.

得利當不

703.

條三百七第

A person who without legal grounds for his action has derived profit from the property or labour of another, and has thereby caused the latter to suffer loss, is bound to make restitution to the extent of the profit which still remains

法の受ける財産上の原因なくして他人の利益に損益を及ぼす者又は他人の利益に損益を及ぼす者又は他人の利益に損益を及ぼす者又は他人の利益に損益を及ぼす者

704.

條四百七第

A person who has derived profit through acting in bad faith must return the profit he has received, together with interest; if damage also has been sustained, he is bound to give compensation.

悪意の利益を受取る者又は悪意の利益を受取る者又は悪意の利益を受取る者又は悪意の利益を受取る者

705.

條五百七第

A person who has paid money in satisfaction of a debt, knowing at the time that the debt did not exist, cannot claim its return.

債務の消滅を知らずして債権を消滅したる者又は債務の消滅を知らずして債権を消滅したる者又は債務の消滅を知らずして債権を消滅したる者

條六百七第

706.

利但たさ債
益債るして務
な債務者か
返務もの給
還者か、い
すは債返
る債錯返
る者誤還
に者に
こに
を因
要者
すに
りて
て其
得給
たか
る為
しし
すし
濟

If a debtor has paid money in satisfaction of a debt the payment of which is not yet due, he cannot claim its return. But if the payment in question was made by mistake, the creditor must return to him any profit which he has thereby derived.

條七百七第

707.

の權保債債
請み権務者
求ん失者
をひ權の
爲棄辨
すたる善
こと又意
きはに
は時爲
辨效者
す因證
者以書
は因場
返誤
還債合
擔に
て
り
て

In cases where a person who is not the debtor has satisfied a debt by mistake, if the creditor has, acting in good faith, destroyed the documents concerning the transaction, or given up the security, or if he has by prescription lost his right as creditor, the person who has satisfied the debt cannot claim the return of the money.

のに濟前
行對者項
使すより
妨求る規
け債定
す務は
權者辨

The provisions of the preceding clause do not preclude the person who has satisfied the debt from exercising his right of re-imburement against the debtor.

條八百七第

708.

者し付爲原不
はたをめ因法
其る爲給のの

A person who has paid money for an unlawful reason cannot claim its return. But this rule

does not apply to cases where the unlawful reason existed only as regards the person who profited by the payment.

返付したるもの
原金を請求する
て原金を得たる
きののみならず
は此の利益を以
て存するに在ら
ざるに於ては

CHAPTER V

第五節

UNLAWFUL ACTS.

爲行法不

709.

條九百七第

A person who intentionally, or through negligence, injures the right of another is bound to compensate him for the damage resulting from his act.

故意又は過失に
て他人の権利を
侵害し或は損害
を生ずる者は其
の損害を賠償す
るに責任を負ふ

710.

條十百七第

Whether the case be one of injury to the person, liberty, or honour of another, or of injury to his rights of property, a person who has, under the provisions of the preceding Article, rendered himself liable for damages must also give compensation for injury other than that to rights of property.

他人の人身自由
又は財産上の利
益を侵害し或は
損害を生ずる者
は其の損害を賠
償するに責任を
負ふ

person. But this rule does not apply to cases where no neglect occurred on the part of the person whose duty it was to exercise supervision.

在ら其督
きはさ義務
す此り務者
す限しな
にに意か

A person exercising supervision over another without legal capacity, in the place of the individual whose duty it is to do so, also incurs the liability mentioned in the previous clause.

す亦をは監
前をり督
項監て義
の督す無
責する務
に能者
任も力に
者代

715.

條五十七第

A person who employs another for the purpose of certain work is bound to give compensation for any damage caused by the latter in the performance of his work to a third person. But this rule does not apply to cases where the employer exercised reasonable care in the selection of the individual whom he employed, and in the supervision of the work, or where the damage would have occurred in spite of the exercise of reasonable care.

か爲選害か或
生し任を其事
すた及賠業
るこひの業
かりさ其の爲
し又するの
しき事執行
さ業責に他人
まばのに付
き相監付き
當督に任
に付使
此限に者
意付使
在者
らな相
すの者
も注加
注被
用者
の被
損用
意者
の損
害の

A person who supervises work in the place of the employer also incurs the liability mentioned in the preceding clause.

の者をは使
責も監り用
任亦督て者
前す事に
す項る業代

The provisions of the two preceding clauses do not preclude the employer, or the person supervising the work, from exercising his right of re-imbusement against the individual employed.

行對者使前
使すより用二
なる者項
妨求被又の
け償用は規
す權者監定
のに督は

條六十七百七第

716.

た指償き注
る圖第文者
とき三責者
は付にに請
此注任に加
限文せへ人
に者すたる
在但る其
ら過損任
す失害事
り又をに
は賠付

A person ordering work is not liable for damage caused to a third person by the contractor in the execution of the work. But this rule does not apply to cases where the person ordering the work is guilty of negligence in respect of his order, or of the instructions issued by him.

條七十百七第

717.

有必に物因土
者要任のり地
なる占ての
之但有他工
を注者人作
賠償意は損
するを者害物
こと為し害設
を損害を置
さし對し又
き發生の發
は生るる保
其損害に存
損止賠償
害はす償
ばるの工
所に實作に

If damage is caused to another person by a defect in the erection or maintenance of works constructed upon land, the possessor of the works is bound to give compensation for damage to the sufferer. But if the possessor exercised the care necessary to prevent the occurrence of the damage, the owner is liable.

をあは竹前
準支木の項
用場持の規
す合に裁定
之に職植又
は之

The provisions of the preceding clause shall extend to cases where defects occur in the planting, or in the propping-up, of bamboos and trees.

行は責に前
使之はに損二
するに占害項
こと者有すの
を對者へき場
を求又者原因
得償所者に於
權有者ある其
を者と其

If in cases coming under the two preceding clauses some other person is responsible for the cause of the damage in question, the possessor, or owner, may exercise his right to claim re-imbusement from him.

718.

條八十百七第

The possessor of an animal is bound to give compensation for damage caused by it to another person. But this rule does not apply to cases where the possessor exercised reasonable care in taking charge of the animal, having regard to its class and nature.

は以ひる人動
此て性責に物
限其責に加の
に保に任へ占
在管従すたる
らなひ但る者
す為相動損は
す當物害其
たる注種賠物
さ意類償か
きな及す他

A person who takes charge of an animal in the place of the possessor also incurs the liability mentioned in the preceding clause.

の者をは占
責も保り有
に亦管て者
任前す動に
す項る物代

719.

條九十百七第

If several persons cause injury to another by a joint unlawful act, they are jointly and severally bound to give compensation for damage. The same rule applies to cases where it cannot be determined who of several persons associated in a joint act caused the injury.

能損任はて數
は害す各他人
さる共自人か
加同連に共
さへ行帶損同
さ為に害の
同する者てを
し中の其加
し知孰償た爲
るれのるさ
こへ責に
さかに

Persons instigating or assisting an act are regarded as persons combining in a joint act.

さ同はひ數
看行之助者
做爲を助者
す者共者及

720.

條十二百七第

A person who in resisting the unlawful act of another, and in defence of his own rights, or those of a third person, unavoidably commits an act causing injury is not bound to give compensation

ても防第に他
加こ衛三對人
害さす者の
行なるの自
爲得爲權已法
なすめ利又行
爲し已なは爲

請對爲被償し
求する害の者たる
妨け損し者者
すけたる者任
ず賠償者不
のに行償者す
に賠償者す

for damage. But the injured party is not precluded from claiming compensation for damage from the person committing the unlawful act.

準しる急の前
用た爲迫物項
するめのよ
場其危り規
合物難生定
ににををし
之毀避を他
を損く人

The provisions of the preceding clause extend to cases where a person injures a thing belonging to another in the endeavour to avoid imminent danger arising from it.

十二百七第
條一

721.

看た既權賠胎
做るにに償兒
すも生付のは
のまて請損
されば求害

As regards the right of claiming compensation for damage, an infant in the womb is considered as having been born.

十二百七第
條二

722.

準賠因不條第
用償る法の四
すに損行規百
之害爲定十
のには七

Compensation for damage arising from unlawful acts shall be subject to the provisions of Article 417.

る付の判り被
こ額所た者
ををはる者
をを定損と
得酌む害に
ず賠償は失
に償裁あ

If negligence has occurred on the part of the person suffering the injury, a Court of law may take the fact into consideration in determining the amount of compensation.

十二百七第
條三

723.

損の判に毀他
害請所對損人
賠償はししの
償に被てた名
代り因害はる譽
者裁者を

In the case of a person who has injured another's honour a Court of law may, on the application of the injured party, either in lieu of com-

ERRATA.

- Page 48, Section V, Heading, for *Periods* read *Dates*.
" 108, Article 293, for *exercises* read *exercise*.
" 113, " 306, Sub-heading iii, for *Servants* read *Servants'*.
" 135, " 365, next to last line, for *companies* read *company's*.
" 149, Section III, Heading, for *Nullification of the Right* read *Extinction*.
" 154, " II, " for *Claims* read *Rights of Action*.
" 185 Article 491, 6th line, for *appointed* read *appropriated*.
" 230, " 600, 1st paragraph, 1st line, for *amage* read *damage*.
" 274, " 638, and " 4th line, for *cercise* read *exercise*.

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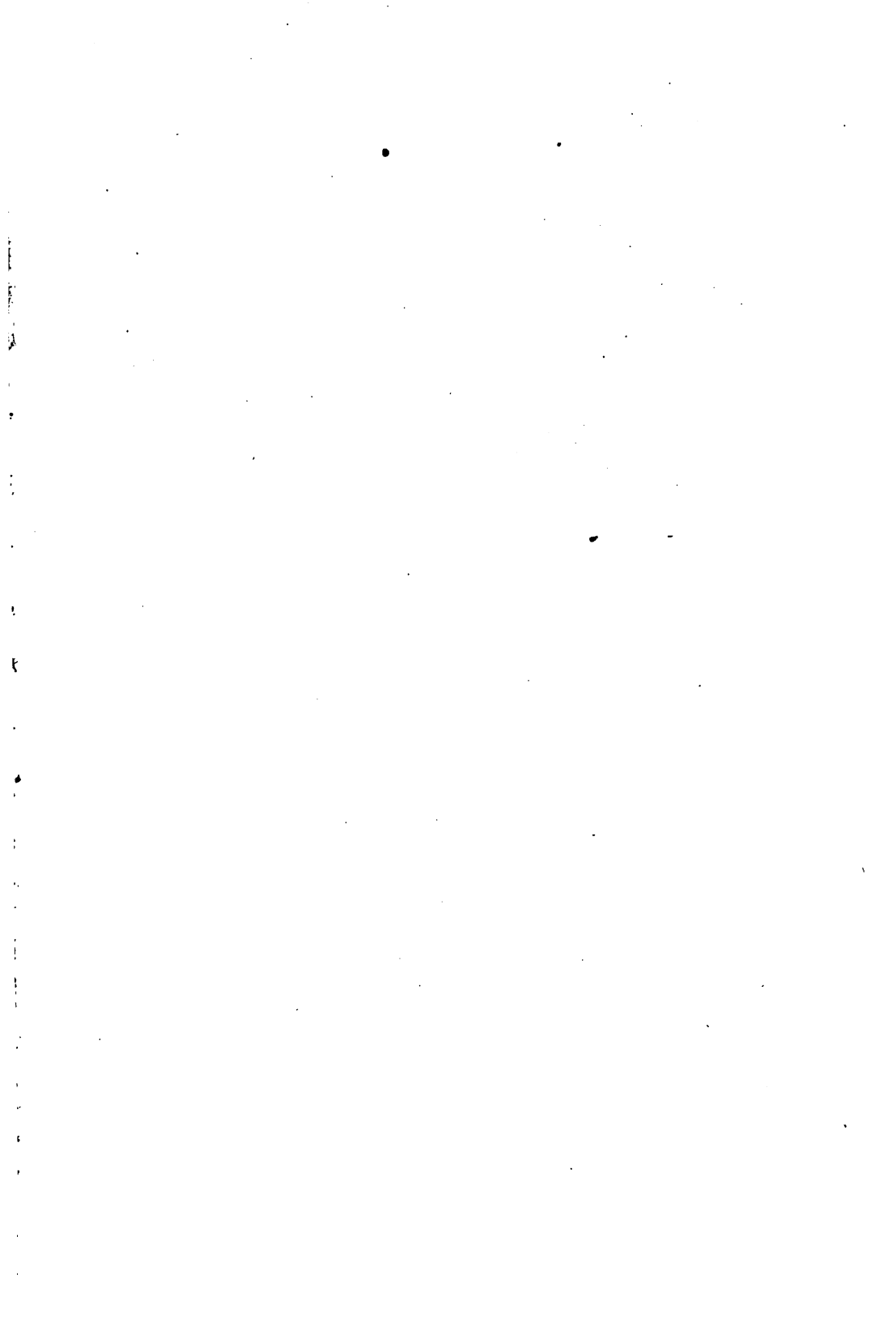
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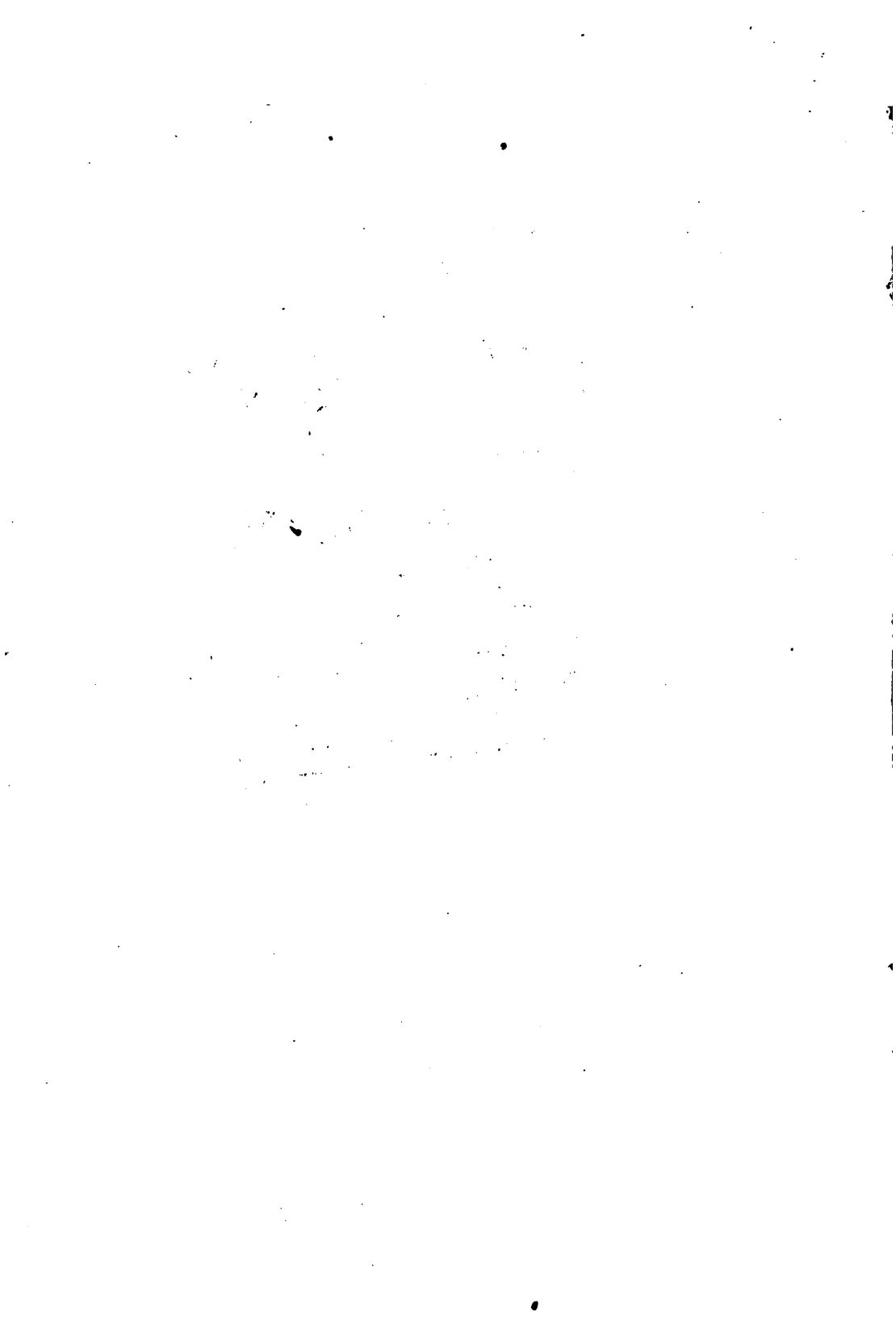
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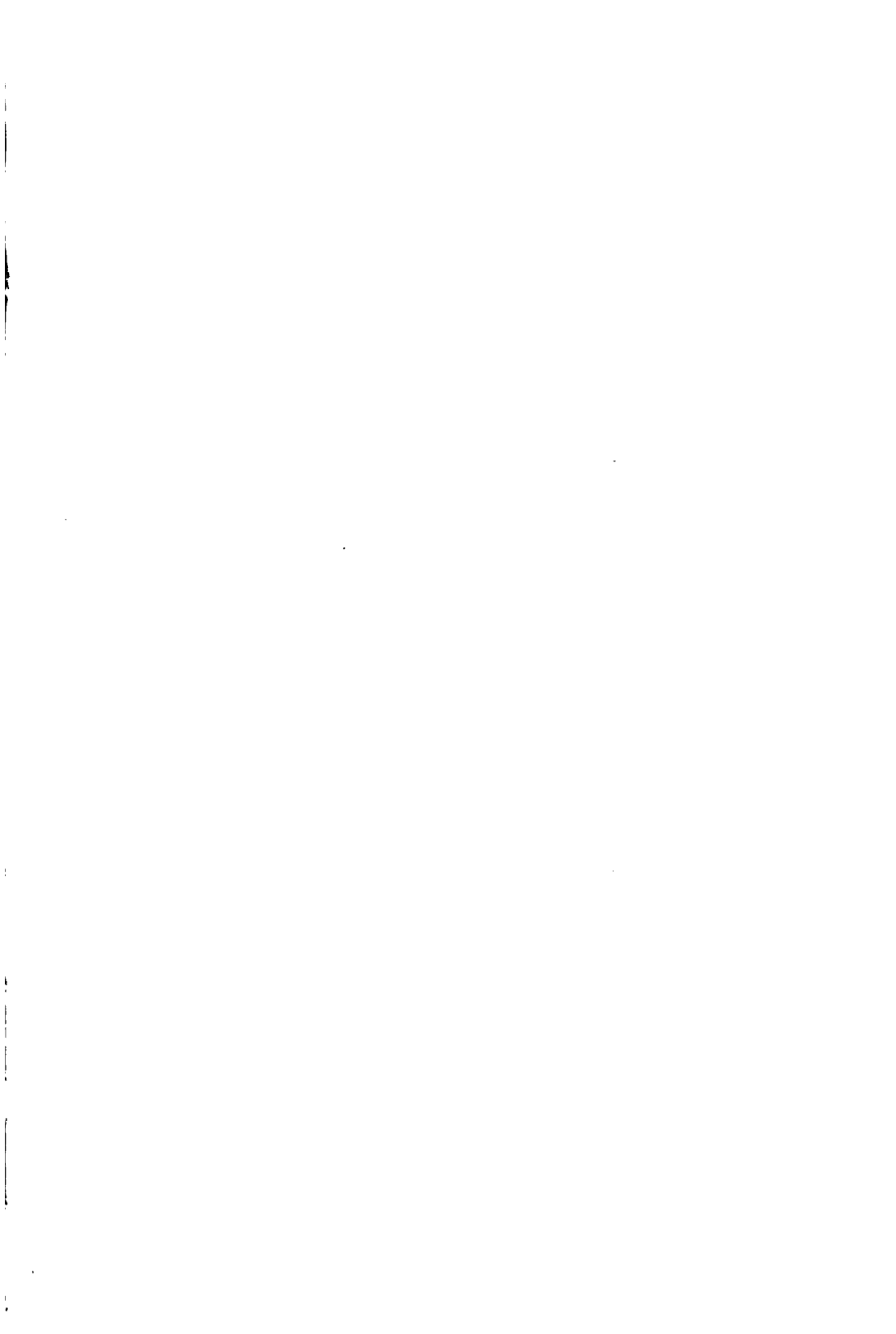
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